



## **CREDIT UNION COMMISSION MEETING**

Credit Union Department Office  
914 East Anderson Lane  
Austin, Texas 78752

Friday, March 27, 2026  
9:00 a.m.

### **AGENDA**

This meeting of the Credit Union Commission (“Commission”) will be held at the Credit Union Department office at 914 East Anderson Lane in Austin, Texas. The meeting is open to the public and will be broadcast live through a link available on the Department website ([cud.texas.gov](http://cud.texas.gov)) on the day of the meeting. Public comment on any agenda item or issue within the jurisdiction of the Commission is permitted but must be provided on-site. Unless authorized by a majority of Commission members present, comments will be limited to ten minutes per person.

The meeting will also be recorded, and a copy of the recording will be available upon request after the meeting.

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

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14. Adjourn

**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, including to discuss pending litigation or obtain advice of legal counsel on agenda items pursuant to Texas Government Code §551.071 and to discuss personnel matters pursuant to Texas Government Code §551.074

**Meeting Recess:** In the event the Commission does not finish its meeting 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 Devon Bijansky, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

1. Call to order – Chair Jim Minge
  - a. Ascertain quorum
  - b. Appoint recording secretary
  - c. Acknowledge guests
  - d. Invitation for public input

Credit Union Commission members

Jim Minge, Chair

Becky L. Ames, Vice Chair

David Bleazard

Karyn C. Brownlee

Cody R. Huggins

Sara Jones Oates

David F. Shurtz

Kay Ranklin-Swan

Staff

Robert Etheridge, Commissioner

Devon Bijansky, Legal Counsel

David Borden, Interim Deputy Commissioner

Isabel Velasquez, Executive Assistant

2. Resolutions acknowledging the contributions of former Commission Members:
- a. Elizabeth “Liz” Bayless
  - b. Beckie Stockstill Cobb

Staff recommendation

Adopt the resolutions as presented in the materials.

Recommended motion

I move that the resolutions acknowledging the contributions of Elizabeth Bayless and Beckie Stockstill Cobb to the Credit Union Commission be adopted as presented.



## 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

### Elizabeth "Liz" Bayless

**WHEREAS**, on August 8, 2019, Governor Greg Abbott appointed Elizabeth "Liz" Bayless of Austin, Texas to the Credit Union Commission; and

**WHEREAS** Elizabeth "Liz" Bayless served as a Public Member of the Commission with honor and distinction through March 21, 2025; and

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

**WHEREAS** Elizabeth "Liz" Bayless has been diligent in her duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

**NOW THEREFORE, BE IT RESOLVED**, that the Credit Union Commission expresses its sincere appreciation for the leadership that Elizabeth "Liz" Bayless provided during her tenure as a Commission member; and

**BE IT FURTHER RESOLVED** that this Resolution be conveyed to Elizabeth "Liz" Bayless 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 twenty-seventh day of March 2026.





## 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

### Beckie Stockstill Cobb

**WHEREAS**, on July 16, 2015, Governor Greg Abbott appointed Beckie Stockstill Cobb of Deer Park, Texas to the Credit Union Commission; and

**WHEREAS** Beckie Stockstill Cobb served as a Public Member of the Commission with honor and distinction through December 5, 2025; and

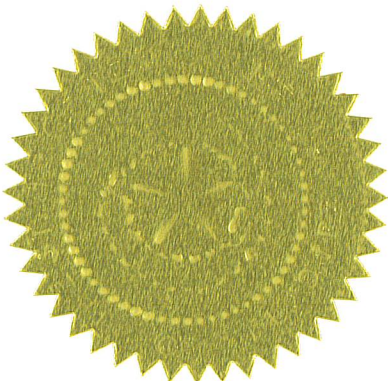
**WHEREAS**, as a Commission Member, she dedicated her time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

**WHEREAS** Beckie Stockstill Cobb has been diligent in her duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

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

**BE IT FURTHER RESOLVED** that this Resolution be conveyed to Beckie Stockstill Cobb 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 twenty-seventh day of March 2026.



### 3. Approve minutes of the December 5, 2025, Commission meeting

#### Staff recommendation

Approve the minutes as presented.

#### Recommended motion

I move that the minutes of the December 5, 2025, Commission meeting be approved as presented.

**CREDIT UNION COMMISSION MEETING MINUTES**  
**Credit Union Department Building**  
**914 East Anderson Lane, Austin, Texas**  
**December 5, 2025**

**A. CALL TO ORDER** -- Chair Jim Minge called the meeting to order at 9:04 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Texas Government Code, and declared that a quorum was present. Other members present included Becky L. Ames, David Bleazard, Karyn C. Brownlee, Beckie Stockstill Cobb, Cody R. Huggins, Sara Jones Oates, David F. Shurtz and Kay Rankin-Swan. The Chair introduced the Department's new General Counsel Devon Bijansky, who will serve as legal counsel for the commission at the meeting. Representing the Department staff were Commissioner Michael S. Riepen, Deputy Commissioner Robert W. Etheridge, Network Specialist, Robert Reid, and Executive Assistant Isabel Velasquez. 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 (**November 25, 2025 TRD#2025006787**).

❖ **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. No public comments were received.

**B. MINUTES OF PREVIOUS MEETING (September 16, 2025)** -- 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. Mr. Shurtz moved for approval of the minutes of the September 16, 2025, meeting as presented. Mrs. Cobb seconded the motion, and the Commission carried the motion unanimously.

## C. RULEMAKING MATTERS –

### 1. Adoption of Proposed Amendments:

(a) **7 TAC, Part 6, Chapter 91, Subchapter A, Section 91.125, Accuracy of Advertising.** – General Counsel Devon Bijansky reported that the amendments clarify that advertising includes announcements and press releases and reaffirm the Commissioner’s authority to prohibit the use of advertising, including postings or press releases, that are false, deceptive or misleading. Ms. Bijansky reported further that no action on the proposed rule amendments due to the current rule allowing sufficient flexibility for the Department to take appropriate action in the event of inaccurate advertising. The proposed amendments would be withdrawn by operation of law if no action is taken within six months of publication in the *Texas Register*.

There being no additional comments and the consensus of the Commission, Chair Minge declared no action will be taken at this time.

(b) **7 TAC, Part 6, Chapter 91, Subchapter J, Section 91.1003, Mergers/Consolidations.** David Shurtz, Chair of Rules Committee, reported some of the different amendments that had been discussed concerning this rule. Commissioner Riepen proceeded to outline the proposed amendments suggested by two commentors (Cornerstone Credit Union League and Randolph-Brooks Federal Credit Union) as well as proposed amendments by Staff.

Chair Minge opened the floor to the public for discussion. After a robust discussion, there being no additional comments and the consensus of the Commission, Chair Minge declared no action will be taken at this time.

## 2. Adoption of Rule Review and Readoption of Rules:

- (a) 7 TAC, Part 6, Chapter 91, Subchapter D (Powers of Credit Unions).
- (b) 7 TAC, Part 6, Chapter 91, Subchapter M (Electronic Operations).
- (c) 7 TAC, Part 6, Chapter 91, Subchapter N (Emergency or Permanent Closing of Office or Operation).
- (d) 7 TAC, Part 6, Chapter 93, Subchapter A (Common Terms).
- (e) 7 TAC, Part 6, Chapter 93, Subchapter B (Appeals from Commission Decisions, Generally).
- (f) 7 TAC, Part 6, Chapter 93, Subchapter C (Appeals of Preliminary Determinations on Applications).
- (g) 7 TAC, Part 6, Chapter 93, Subchapter D (Appeals of Cease and Desist Orders and Orders of Removal).
- (h) 7 TAC, Part 6, Chapter 93, Subchapter E (Appeals of Orders of Conservation).
- (i) 7 TAC, Part 6, Chapter 93, Subchapter F (Review and Decision by the Commission).

David Shurtz, Chair of Rules Committee, reported that a state agency reviews and considers 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 March 22, 2024, 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 have reviewed 7 TAC, Part 6, Chapter 91, Subchapter D (Powers of Credit Unions), 7 TAC, Part 6, Chapter 91, Subchapter M (Electronic Operations), 7 TAC, Part 6, Chapter 91, Subchapter N (Emergency or Permanent Closing of Office or Operation), 7 TAC, Part 6, Chapter 93, Subchapter A (Common Terms), 7 TAC, Part 6, Chapter 93, Subchapter B (Appeals from Commission Decisions, Generally), 7 TAC, Part 6, Chapter 93, Subchapter C (Appeals of

**Preliminary Determinations on Applications). 7 TAC, Part 6, Chapter 93, Subchapter D (Appeals of Cease and Desist Orders and Orders of Removal), 7 TAC, Part 6, Chapter 93, Subchapter E (Appeals of Orders of Conservation), and 7 TAC, Part 6, Chapter 93, Subchapter F (Review and Decision by the Commission).** Amendments to rules with these chapters are being separately presented for proposal.

After a short discussion, Mr. Shurtz moved that the Commission find the reasons for adopting these rules continue to exist. Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

**3. Proposal of Amendments to:**

**(a) 7 TAC, Part 6, Chapter 91, Subchapter D, Section 91.401, Credit Union Ownership of Property.** David Shurtz, Chair of Rules Committee, reported that the proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, would harmonize the definition of "premises" with the National Credit Union Administration's definition for purposes of the limitation on credit union ownership of property, delete references to terms that were removed from the rule with the 2015 amendments, and make organizational and other non-substantive changes for improved readability.

After a brief discussion, Mr. Shurtz moved that the Commission approve the proposal and publication the amendments to **7 TAC, Part 6, Chapter 91, Subchapter D, Section 91.401** as revised and handed out today. Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

**D. COMMISSIONER EVALUATION COMMITTEE** - Chair Brownlee reported that the Commissioner Evaluation Committee met on December 4, 2025, in a public meeting and completed the Committee's assigned process.

As such, the committee will work on the following:

- ✦ Recommendations related to the Commissioner's FY 2025 Performance Review.
- ✦ Recommendations related to the Commissioner's FY 2026 Performance Evaluation Process.

Because these are personnel matters, Chair Brownlee requested an executive session for private deliberation prior to taking any action.

Chair Minge officially announced that under the Texas Open Meetings Act, Texas Government Code, Section 551.074 for this agenda item, the Commission will now enter Executive Session to deliberate on personnel matters for this agenda item. The Commission entered Executive Session at 9:52 a.m.

At 10:20 a.m., the Commission returned to open session and there were no motions to entertain. Chair Minge inquired if there were any members who wished to bring forth any motion.

- ✦ Mrs. Brownlee moved to approve the Commissioner's Fiscal Year 2025 Performance Review.
- ✦ In addition, Mrs. Brownlee moved to approve the FY 2026 Performance Evaluation Process.

Entered on a motion of a standing committee, a second was not needed and the motion passed unanimously.

**E. DEPARTMENT'S FY 2025 BUDGET AND FINANCIAL PERFORMANCE** – Commissioner Riepen reported that in 2024 the Commission adopted a strategic plan for Fiscal Years 2025-2029. The \$5.9 million FY 2025 budget approved by the Commission in July 2024 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

At the end of August 2025, total expenditures were \$475,048 or approximately 8.1 percent less than budgeted projections. The primary expense categories below budget estimates include Personnel Expenses (\$380,055), and Travel Expenses (\$93,149).

After a brief discussion, the Commission took no action.

**F. STATUS OF THE STATE CREDIT UNION SYSTEM** – Deputy Commissioner Etheridge briefly reported on the financial condition of Texas state-chartered credit unions and expressed overall our credit unions continue to experience sound financial performance and are seeing positive trends with earnings and with stabilized asset quality trends as well. In addition, over the 12 months asset growth has been only modest and has resulted in a continued strengthening of net worth ratios over the last year.

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

**G. PENDING LITIGATION**

**Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168.**

**Cooperative Teachers Credit Union v. Credit Union Department, State Office of Administrative Hearings; Docket No. 469-23-07487.**

Chair Minge officially announced that under the Texas Open Meetings Act, Texas Government Code, Section 551.071 for this agenda item, the Commission will now enter Executive Session to consult with general counsel regarding pending litigation for this agenda item. The Commission entered Executive Session at 10:29 a.m.

At 10:44 a.m., the Commission returned to open session and there were no motions to entertain. Chair Minge inquired if there were any members who wished to bring forth any motion.

**H. FUTURE COMMISSION MEETINGS** – Chair Minge inquired if anyone had any suggested agenda items for our March 27, 2026, meeting. No requests were received.

**I. SWEARING-IN OF INCOMING CREDIT UNION DEPARTMENT COMMISSIONER** - Chair Minge welcomed everyone to the swearing-in ceremony of Robert W. Etheridge as the Commissioner of the Credit Union Department. Mr. Minge expressed the importance of this event and being named the Texas Credit Union Commissioner is an extraordinary responsibility and the Commission is very pleased to have been fortunate enough to appoint someone with Mr. Etheridge's knowledge and experience. Mr. Etheridge was ceremoniously sworn in. Mr. Etheridge thanked the Commission for allowing him the opportunity to serve as Commissioner.

**J. ADJOURNMENT** – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 10:51 a.m.

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Jim Minge  
Chairman

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Isabel Velasquez  
Recording Secretary

**Distribution:**

Legislative Reference Library

DRAFT

# FOLLOW-UP ACTION REPORT

## CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 03-09-2026)
<b><u>December 5, 2025</u></b>		
7 TAC Part 6, Chapter 91 Subchapter A, Section 91.125 (Accuracy of Advertising)	No action on proposed rule amendments	
7 TAC Part 6, Chapter 91 Subchapter J, Section 91.1003 (Mergers/Consolidations)	No action on proposed rule amendments	
7 TAC Part 6, Chapter 91 Subchapter D (Powers of Credit Unions) Subchapter M (Electronic Operations) Subchapter N (Emergency or Permanent Closing of Office or Operation)	Published in <i>Texas Register</i> as readopted rules	Published in <i>Texas Register</i> on 02/27/2026
7 TAC, Part 6, Chapter 93 Subchapter A (Common Terms) Subchapter B (Appeals from Commission 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) Subchapter F (Review and Decision by the Commission)	Published in <i>Texas Register</i> as readopted rules	Published in <i>Texas Register</i> on 02/27/2026

# FOLLOW-UP ACTION REPORT CREDIT UNION COMMISSION MEETINGS

<b>MINUTES DATE AND REFERENCE/TOPIC</b>	<b>FOLLOW-UP ACTION REQUIRED</b>	<b>STATUS (As of 03-09-2026)</b>
7 TAC, Part 6, Chapter 91 Subchapter D, Section 91.401 (Credit Union Ownership of Property)	Published in <i>Texas Register</i> as proposed rule	Published in <i>Texas Register</i> on 12/19/2025

## 4. Rulemaking Matters – Rules Committee – Chair David Shurtz

**PROCEDURES FOR ADOPTING A PROPOSED RULE**  
**(also applicable to rule amendments and repeals)**

*Chapter 2001 of the Texas Government Code (the Administrative Procedure Act) establishes certain requirements for agency rulemaking. In accordance with those requirements, the Department generally follows the process below.*

1. Staff prepares proposed rules and presents them to the Rules Committee for consideration.
2. At a public meeting, the Rules Committee accepts testimony on each rule proposal. The Committee reviews each rule and votes to make a recommendation to the Commission or to refer the proposal back to staff.
3. The Committee's recommendation is presented to the Commission for consideration.
4. After reviewing the proposal, the Commission can vote to propose the rule or refer it back to the Committee and/or staff for further work.
5. If the Commission votes to propose a rule, Staff files the proposal with the *Texas Register* for publication as a proposed rule.
6. Once published in the *Register*, there is a 30-day public comment period, which is also announced in the Department Newsletter.
7. Typically the Rules Committee meets after the end of the 30-day comment period and before the Commission takes final action on a rule item. The Committee may vote to recommend adoption of the rule as proposed, adoption with changes from the version that was proposed, or other action on the rule.
8. The Commission can consider adoption of the rule in a public meeting any time after the comment period ends. Any comments received must be addressed if the proposal is adopted (with or without changes from the proposed version). The Commission can vote to adopt the rule or repropose it, but any substantive changes will require re-proposal and publication for another 30-day public comment period.
9. Adopted rules are filed with the *Texas Register*, where they are published as final adopted rules.
10. The rule becomes effective 20 days after filing with the *Register* unless a later date is indicated in the filing.
11. The rule is announced in the Department Newsletter and made available to credit unions.

## **PROCEDURES FOR REQUIRED RULE REVIEW**

*Section 2001.039 of the Texas Government Code requires every state agency to review and consider for re-adoption each of its rules not later than the fourth anniversary of the date on which the rule took effect and every four years thereafter. To comply with this requirement, the Commission follows the process below.*

1. Every four years, the Commission adopts a Rule Review Plan establishing dates for the required review of each existing rule.
2. Prior to a particular rule's scheduled review date, the Department publishes notice in the *Texas Register* and the Department Newsletter reminding interested persons of the review and encouraging comments on the sections up for review.
3. Staff reviews each rule to determine whether the reasons for its adoption still apply, whether the rule reflects current legal and policy considerations, and whether the rule's structure and language are both clear and understandable.
4. If, after reviewing existing rules and considering any comments submitted, staff believes certain amendments may be appropriate, proposed amendments are prepared by staff and presented to the Rules Committee for review.
5. At a public meeting, the Rules Committee accepts public testimony and considers staff-recommended changes. The Committee reviews each rule and votes to make a recommendation to the Commission or refer the proposal back to staff.
6. The Committee's recommendation is presented to the Commission.
7. The Commission can approve the Committee's recommendation regarding any rules to which changes are not to be made and adopt the rule review as to those items. Any rules being amended would go through the process outlined under Procedures for Adopting a Proposed Rule.

## **EMERGENCY RULES**

Rules approved by the Commission for emergency adoption become effective immediately upon filing with the Texas Register unless a later date is indicated in the filing. They can only be effective for 120 days, with one possible extension of an additional 60 days (maximum 180 days). While these emergency rules are in effect, rulemaking should be initiated through the normal process described above. The agency rarely adopts emergency rules, which are only permitted in very limited circumstances (imminent peril to public health, safety, or welfare, or a requirement of state or federal law requiring adoption on fewer than 30 days notice).

## 4. Rulemaking Matters

### a. Adoption or other action on amendments to 7 TAC Section 91.401, Credit Union Ownership of Property

#### Background

These amendments, proposed at the December meeting, would harmonize the definition of “premises” with the National Credit Union Administration’s definition for purposes of the limitation on credit union ownership of property, delete references to terms that were removed from the rule with the 2015 amendments, and make organizational and other non-substantive changes for improved readability.

No comments were submitted in response to the proposed amendments.

#### Staff recommendation

Staff recommends that the Commission adopt the amendments as proposed.

#### Recommended motion

I move that the Commission adopt the amendments to 7 TAC Section 91.401 as proposed.

## 91.401 Credit Union Ownership of Property

The Credit Union Commission adopts amendments to §91.401, Credit Union Ownership of Property, without changes to the proposed text as published in the December 19, 2025, issue of the *Texas Register* (50 TexReg 8131), and the rule will not be republished.

The amendments simplify the definition of “premises,” delete references to terms that were removed from the rule with amendments made in 2015, change the time for a credit union investing in property to put it into service for credit union business to six years and create a process for requesting an extension of time for consistency with the NCUA regulation, and make organizational and other non-substantive changes for improved readability.

The reasoned justification for the amendments is increased clarity and readability of the rule.

No comments were received in response to the proposed amendments.

The amendments are adopted pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code Sections 124.351.

The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically Finance Code Section 124.351.

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

## 91.401 Credit Union Ownership of Property

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

~~[(1) Equipment includes all movable furniture, fixtures, and equipment of the credit union, its branch offices, and consolidated credit union service organizations, including automobiles and other vehicles, and any lien on the above.]~~

(1) ~~[(2)]~~ Immediate family member ~~– [–]a spouse or other family member living in the same household.~~

(2) ~~[(3)]~~ Premises ~~– any real property where the credit union transacts or will transact business. [include the cost less accumulated depreciation, of land and buildings actually owned and occupied (or to be occupied) by the credit union, its branch offices, and consolidated credit union service organizations. This includes vaults, fixed machinery, parking facilities, and real estate acquired and intended, in good faith, for future expansion. It also includes capitalized leases, leasehold improvements, and remodeling costs to existing premises.]~~

(3) ~~[(4)]~~ Senior management employee [~~Management Employee~~] – ~~[=]~~ the chief executive officer, any assistant chief executive officers (e.g. vice presidents and above) and the chief financial officer.

(b) Restrictions on Ownership of Property. A credit union shall not acquire real property for any purpose other than majority use as premises.

(1) A credit union investing in real property, including a leasehold interest therein, with a good faith intention to use it in future expansion must put the majority of each property into service for credit union business within six years after making the investment.

(2) The Commissioner may extend the six-year period in paragraph (b)(1). To seek an extension, a credit union must submit a written request and fully explain why it needs the extension. The Commissioner will approve or disapprove the request in writing based on safety and soundness considerations.

(c) ~~[(b)]~~ Investment Limitations on Premises. Without the prior written consent of the Department, a credit union may not directly or indirectly invest an amount in excess of its net worth in premises. In support of an application for approval of an additional investment in premises, a credit union shall submit such statements and reports as the Department requires.

(1) When analyzing an application for an additional investment in credit union premises, the Department will consider:

(A) consistency with safe and sound credit union practices;

(B) the reasonableness of the amount of credit union premises and the annual expenditures required to carry them relative to the credit union's net worth and the nature and volume of operations; and

(C) the effect of the investment on future earnings.

(2) The Department will consider denying a request for an additional investment in credit union premises when:

(A) the additional investment would have a material negative effect on the credit union's earnings, capital, or liquidity; or

(B) the credit union has not demonstrated a reasonable need for the additional investment.

(3) The Department may impose appropriate special conditions for an approval of an additional credit union premises investment if it determines that they are necessary or appropriate to protect the safety and soundness of the credit union or to further other supervisory or policy considerations.

~~[(c) Restrictions on Ownership of Property. A credit union shall not acquire premises for the principal purpose of engaging in real estate rentals or speculation.]~~

(d) Transactions with insiders.

(1) Without the prior approval of a disinterested majority of the board of directors recorded in the minutes or, if a disinterested majority cannot be obtained, the prior written approval of the commissioner, a credit union may not directly or indirectly:

(A) ~~[(1)]~~ sell or lease an asset of the credit union to a director, committee member, or senior management employee, or immediate family member[s] of such individual; or

(B) [(2)] purchase or lease an asset in which a director, committee member, senior management employee, or immediate family member[s] of such individual has an interest.

(2) All transactions with family members not defined as immediate family members in paragraph (a)(1) must be conducted at arm's length and in the interest of the credit union.

~~[(e) Use requirement for premises. If real property or leasehold interest is acquired and intended, in good faith, for use in future expansion, the credit union must partially satisfy the "primarily for its own use in conducting business" requirement within five years after the credit union makes the investment.]~~

~~[(f) Consent to Exceed Limitation. Generally, a credit union need not obtain the Department's approval to invest in premises. However, prior approval is required if the total aggregate investment in premises will exceed the credit union's net worth. A credit union shall submit such statements and reports as the Department may require in support of the higher investment limit.~~

~~(1) When analyzing an application for an additional investment in credit union premises, the Department will consider:~~

~~(A) Consistency with safe and sound credit union practices;~~

~~(B) The reasonableness of the amount of credit union premises and the annual expenditures required to carry them relative to the credit union's net worth and the nature and volume of operations; and~~

~~(C) The effect of the investment on future earnings.~~

~~(2) The Department will consider denying a request for an additional investment in credit union premises when:~~

~~(A) The additional investment would have a material negative effect on the credit union's earnings, capital, or liquidity; or~~

~~(B) The credit union has not demonstrated a reasonable need for the additional investment.~~

~~(3) The Department may impose appropriate special conditions for an approval of an additional credit union premises investment, if it determines that they are necessary or appropriate to protect the safety and soundness of the credit union or to further other supervisory or policy considerations.]~~

## 4. Rulemaking Matters

### b. Proposal of amendments to:

#### i. 7 TAC Section 91.1003, Mergers/Consolidations

##### Background

These amendments were developed with input from a working group formed after the December meeting in light of the previously proposed amendments and concerns raised at that meeting. The amendments would prohibit merger inducements and require merger-related financial arrangements (both as defined in the rule) to be disclosed to members. The amendments would also revise certain requirements for approval by the Department, increase consistency between this rule and the NCUA rule, and make non-substantive changes for clarity and readability.

##### Staff recommendation

Staff recommends that the Commission propose the amendments as presented.

##### Recommended motion

I move that the Commission propose the amendments to 7 TAC Section 91.1003 as presented.

## 91.1003 Mergers/Consolidations

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

(1) Acquirer [~~credit union~~] – The credit union that will continue in operation after the merger/consolidation.

(2) Acquiree [~~credit union~~] – The credit union that will cease to exist as an operating credit union at the time of the merger/consolidation.

(3) Covered person – the chief executive officer (CEO) or person acting in a similar capacity; the four most highly compensated employees other than the CEO, and any member of the board of directors or supervisory committee.

(4) Merger inducement – Any payment of money, the distribution of property, or other economic benefit offered, provided, or promised to a member of the Acquiree that is conditioned on the member voting, refraining from voting, or voting in a particular manner on a proposed merger or the successful completion of a merger. A merger inducement does not include: [A promise by a credit union to pay to the members of another credit union a sum of money or other material benefit upon the successful completion of a merger of the two credit unions.]

(A) a dividend or interest payment distributed proportionally among members based on each member's applicable account balance relative to the total balances on which the dividend or interest is paid;

(B) an interest rebate distributed proportionally among members based on each member's share of the total interest paid to the credit union; or

(C) dividends, interest, or other payments made in the ordinary course of business that are generally available to members and not tied to the proposed merger/consolidation;

(D) products, services, or pricing available to all members of Acquirer and Acquiree;

(E) nominal promotional items distributed in the ordinary course of business; or

(F) access to products, services of Acquirer following the merger/consolidation, including expanded branch access or service offerings.

(5) Merger-related financial arrangement – any agreement, arrangement, or understanding under which a covered person, or an entity affiliated with a covered person, receives or is entitled to receive a substantial increase in compensation or benefits that is

contingent upon, related to, or provided in connection with the completion of a merger/consolidation, including:

(A) any increase in compensation or benefits provided to the covered person during the 24 months preceding the date on which the boards of directors of Acquirer and Acquiree approve the plan for merger/consolidation; and

(B) any increase in compensation or benefits that will be provided to the covered person in connection with the merger/consolidation; and

(C) the aggregate value of all increases in direct or indirect compensation, including salary, bonuses, leave, deferred compensation, accelerated or early payment of retirement benefits, or any other financial reward, excluding compensation or benefits available to all employees of the Acquirer on identical terms and conditions.

(6) [(4)] Substantial--An amount exceeding the greater of 15% of a person's existing compensation or 15% of the value of the person's existing benefits, or \$10,000. [that is large in size, value, or importance. For purposes of this section, an amount is substantial if it exceeds \$1,000.00 in total.]

(b) Merger/Consolidation; No Inducements. Two or more credit unions organized under the laws of this state, another state, or the United States, may merge/consolidate, in whole or in part, with each other, or into a newly incorporated credit union to the extent permitted by applicable law, subject to the requirements of this rule. An Acquirer may not directly or indirectly, including through a credit union service organization, an affiliate, a contractor, or other third party, offer, provide, arrange, or promise a merger inducement to any member of the Acquiree. [A credit union may not offer a merger inducement to another credit union's members as a means of promoting a merger of the two credit unions.]

(c) Notice of Intent to Merge/Consolidate. The Acquirer and Acquiree [credit unions] shall notify the commissioner in writing of their intent to merge/consolidate within ten days after their [the credit unions] boards of directors formally agree in principle to a proposition to merge/consolidate.

(d) Plan for Merger/Consolidation. Upon approval of a proposition for merger/consolidation by the boards of directors, the Acquirer and Acquiree [credit unions] must prepare a plan for the proposed merger/consolidation. The plan shall include:

(1) The terms and conditions of the merger/consolidation including a detailed description of all merger-related financial arrangements [any substantial remuneration, such as bonuses, deferred compensation, early payout of retirement benefits, severance packages, retainers, services agreements, or other substantial financial rewards or

~~benefits that any board member or senior management employee of the acquiree credit union may receive in connection with the merger/consolidation];~~

(2) the current financial reports of each credit union;

(3) the current delinquent loan summaries for each credit union;

(4) the combined financial reports of the Acquirer and Acquiree [two or more credit unions], including an assessment, in accordance with generally accepted accounting principles, of net worth of each credit union prior to the merger/consolidation and the combined net worth of the Acquirer after the merger/consolidation;

(5) ~~(4)~~ an analysis of the adequacy of the combined Credit Loan and Lease Losses account;

(6) ~~(5)~~ an explanation of any proposed adjustments to the members' shares, or provisions for reserves, dividends, or undivided earnings ~~[profits]~~;

(7) ~~(6)~~ a summary of the products and services proposed to be available to the members of the Acquirer ~~[acquirer credit union]~~, with an explanation of any changes from the current products and services provided to the members;

(8) ~~(7)~~ a summary of the advantages and disadvantages of the merger/consolidation;

(9) ~~(8)~~ the projected location of the main office and any branch location(s) after the merger/consolidation and whether any existing office locations will be permanently closed; and

(10) provisions and/or liabilities with respect to notification and payment to creditors; and

(11) ~~(9)~~ any other items deemed critical to the merger/consolidation by the Acquirer's and Acquiree's boards of directors ~~[agreement by the boards of directors]~~.

(e) Submission of an Application to Merge/Consolidate to Department.

(1) An application for approval of the merger/consolidation will be complete when the following information is submitted to the commissioner:

(A) the merger/consolidation plan, as described in this section;

(B) any proposed agreement, arrangement, or understanding arising from or required to implement the merger/consolidation;

(C) ~~(B)~~ a copy of the corporate resolution of each board of directors approving the merger/consolidation plan;

(D) ~~[(E)]~~ the proposed Notice of Special Meeting of the members;

(E) ~~[(D)]~~ a copy of the ballot form to be sent to the members;

~~[(E) the current delinquent loan summaries for each credit union;]~~

(F) a statement as to whether the transaction is subject to the Hart-Scott Rodino Act premerger notification filing requirements; ~~[and]~~

~~(G) board minutes of Acquirer and Acquiree referencing the merger/consolidation during the 24 months preceding board approval of the merger/consolidation plan; [a request for a waiver of the requirement that the plan be approved by the members of any of the affected credit unions, in the event the board(s) seek such a waiver, together with a statement of the reason(s) for the waiver(s).]~~

(H) any additional information requested by the commissioner;

(I) a certification executed by the chief executive officers and chairpersons of the Acquirer and Acquiree stating that no merger-related financial arrangements exist other than those disclosed in the Notice of Special Meeting;

(J) for a credit union seeking a waiver of member approval of the merger/consolidation plan, a written request stating the reasons for the waiver; and

(K) for an Acquirer that is not federally insured and does not intend to become federally insured:

(i) a written statement that it is aware of the federal requirements prescribed by 12 U.S.C. 1831t(b), including all notification requirements; and

(ii) proof that its accounts will be insured by the non-federal insurer.

(2) If the Acquirer ~~[acquirer credit union]~~ is organized under the laws of another state or of the United States, the commissioner may accept an application to merge or consolidate that is prescribed by the state or federal supervisory authority of the Acquirer ~~[acquirer credit union]~~, provided that the commissioner may require additional information to determine whether to deny or approve the merger/consolidation plan. An ~~[The]~~ application submitted under this paragraph will be ~~[deemed]~~ complete upon receipt of all information requested by the commissioner.

(3) Notice of the proposed merger/consolidation must be published in the *Texas Register* and Department Newsletter as prescribed in §91.104 (relating to Public Notice and Comment on Certain Applications).

(f) Commissioner Action on the Application.

(1) The commissioner may grant preliminary approval of an application for merger/consolidation conditioned upon specific requirements being met, but final approval shall not be granted unless such conditions have been met within the time specified in the preliminary approval. If the commissioner determines that a merger/consolidation constitutes an emergency, the commissioner may waive any specific merger plan or application requirements to ensure uninterrupted service to the members.

(2) The commissioner may ~~shall~~ deny an application for merger/consolidation if the commissioner finds any of the following:

(A) the financial condition of the Acquirer ~~[acquirer credit union]~~ before the merger/consolidation is such that it will likely jeopardize the financial stability of the Acquiree ~~[merging credit union]~~ or prejudice the financial interests of the members, beneficiaries or creditors of either credit union;

(B) the plan includes a change in the products or services available to members of the Acquiree ~~[acquiree credit union]~~ that substantially harms the financial interests of the members, beneficiaries or creditors of the Acquiree ~~[acquiree credit union]~~;

(C) the merger/consolidation is likely to [would probably] substantially lessen the ability of the Acquirer ~~[acquirer credit union]~~ to meet the reasonable needs and convenience of members to be served;

(D) the credit unions do not furnish to the commissioner all information requested by the commissioner which is material to the application;

(E) the credit unions fail to obtain any approval required from a federal or state supervisory authority; or

(F) the merger/consolidation would be contrary to law.

(3) For applications to merge/consolidate in which the products and services of the Acquirer ~~[acquirer credit union]~~ after merger/consolidation are proposed to be substantially the same as those of the Acquirer and Acquiree ~~[acquiree and acquirer credit unions]~~, the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

(g) Procedures for Approval of Merger/Consolidation Plan by the Members of Each Credit Union.

(1) The credit unions have the option of allowing their members to vote on the plan in person at a meeting of the members, by mail ballot, or both. With prior approval of the

commissioner, a credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(2) Members shall be given advance notice of the meeting in accordance with the credit union's bylaws. The notice of the meeting shall:

(A) specify the purpose of the meeting and state the date, time, and place of the special meeting;

(B) state the reasons for the proposed merger/consolidation;

(C) contain a summary of the merger/consolidation plan, including: ~~[and state that any interested person may obtain more detailed information about the merger from the credit union at its principal place of business, or by any method approved in advance by the commissioner;]~~

(i) a statement on whether the Acquiree has a higher or lower net worth ratio than the Acquiree;

(ii) an indication of whether the members of the Acquiree will receive a share adjustment, dividend, or other distribution of reserves or undivided earnings and a description of the reasons for the decision;

(iii) a description of any changes regarding the change in the members' deposit insurance if the Acquiree is not federally insured;

(iv) a statement that any interested person may obtain more detailed information about the merger/consolidation from the credit union at its principal place of business, or by any method approved in advance by the commissioner; and

(v) a table, provided on a separate page enclosed with the meeting notice, ballot, and plan summary, describing each merger-related financial arrangement, including the covered person involved, their position, the nature and description of the arrangement, and the total amount of any compensation or benefits associated with the arrangement;

(D) provide the names and street addresses of Acquirer's branch offices after the merger/consolidation ~~[location of the acquirer credit union]; and~~

(E) state that members may vote on the merger/consolidation proposal in person or mail ballot or electronically (if the credit union bylaws allow) no later than the date and time established for the meeting called to vote on the merger/consolidation. [specify the methods permitted for casting votes; and]

~~[(F) if applicable, be accompanied by a mail ballot.]~~

(h) Completion of Merger/Consolidation.

(1) Upon approval of the merger/consolidation plan by the membership, if applicable, the Certificate of Merger/Consolidation shall be completed, signed and submitted to the commissioner for final authority to combine the records. Necessary amendments to the Acquirer's [~~acquirer credit union's~~] articles of incorporation or bylaws shall also be submitted at this time.

(2) Upon receipt of the commissioner's written authorization, the records of the credit unions shall be combined as of the effective date of the merger/consolidation. The board of the directors of the Acquirer [~~acquirer credit union~~] shall certify the completion of the merger/consolidation to the commissioner within 30 days after the effective date of the merger/consolidation.

(3) Upon receipt by the commissioner of the completion of the merger/consolidation certification, any article of incorporation or bylaw amendments will be approved and the charter of the Acquiree [~~acquiree credit union~~] will be canceled.

(i) Other requirements. A federally insured credit union subject to this section must comply with applicable provisions of 12 C.F.R. Part 708b. The commissioner may require documentation demonstrating compliance when considering a merger/consolidation application.

## 4. Rulemaking Matters

### b. Proposal of amendments to:

#### ii. 7 TAC Chapter 91, Subchapter G:

##### A. Section 91.709, Member Business and Commercial Loans

##### B. Section 91.714, Leasing

#### Background

These amendments are the result of the Department's rule review process. The amendments to Section 91.709 clarify the concept of controlling interests in commercial loans and make other non-substantive changes for clarity.

The amendments to Section 91.714 include the deletion of language in subsection (b) about acquisition of property for the purpose of leasing it, which is prohibited by Section 91.401, and addition of a reference to Section 91.401 to ensure consistency between these two sections that relate to ownership and leasing of real property by a credit union.

#### Staff recommendation

Staff recommends that the Commission propose the amendments as presented.

#### Recommended motion

I move that the Commission propose the amendments to 7 TAC Sections 91.709 and 91.714 as presented.

The Credit Union Commission proposes amendments to §§91.709, Member Business and Commercial Loans, and 91.714, Leasing.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, would delete a reference in subsection (b) of §91.714 to acquisition of property for the purpose of leasing it, already prohibited by §91.401, and make non-substantive changes to both rules, including clarifications to §91.709 regarding the concept of controlling interests in commercial loans and to §91.714 by adding a reference to §91.401 to ensure consistency between these sections that both address ownership and leasing of real property by a credit union.

**COST TO REGULATED PERSONS.** This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

**GOVERNMENT GROWTH IMPACT STATEMENT.** In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended 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 Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

**ENVIRONMENTAL RULE ANALYSIS.** The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

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

**PUBLIC BENEFIT/COST NOTE.** Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is increased clarity, consistency, and readability of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rules.

**IMPACT ON LOCAL EMPLOYMENT OR ECONOMY.** There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

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

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

**REQUEST FOR PUBLIC COMMENT.** The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@ cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

**STATUTORY AUTHORITY.** The amendments are proposed pursuant to Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code §123.103.

**STATUTORY SECTIONS AFFECTED.** The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, particularly Finance Code §123.103.

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

91.709 Member Business and Commercial Loans

(a) Definitions. Definitions in TEX. FIN. CODE §121.002, are incorporated herein by reference. As used in this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) –(2) (No change.)

(3) "Controlling interest" means an interest in which a person directly or indirectly, or acting through or together with one or more other persons ~~[who]~~:

(A) owns, controls, or has ~~[have]~~ the power to vote twenty-five (25) percent or more of any class of voting securities of another person;

(B) controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or

(C) has ~~[have]~~ the power to exercise a controlling influence over the management or policies of another person.

(4) – (11) (No change.)

(b) – (h) (No change.)

(i) Aggregation and Attribution for Commercial Loans.

(1) –(2) (No change.)

(3) Common Enterprise.

(A) Description. A common enterprise is considered to exist and commercial loans to separate borrowers will be aggregated when:

(i) the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment under this subparagraph because of wages and salaries paid to an employee~~[-]~~ unless the loans or extensions of credit are made ~~[the standards of clause (ii) of this subparagraph are met]:~~

~~[(ii) the loans or extension of credit are made:]~~

(l) to borrowers who have a controlling interest in the employer ~~[who are related directly or indirectly through control]~~ as defined by subsection (a) of this section; and

(II) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when fifty (50) percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and other similar receipts or payments;

(ii) [(iii)] separate persons borrow from a credit union to acquire a business of enterprise of which those borrowers will own more than fifty (50) percent of the voting securities of voting interest, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loans; or

(iii) [(iv)] the Department determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

(B) – (C) (No change.)

(j) – (m) (No change.)

#### 91.714 Leasing

(a) (No change.)

(b) Permissible activities. Subject to the limitations of this section and section 91.401, a credit union may engage in leasing activities. These activities include [~~becoming the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property;~~] obtaining an assignment of a lessor's interest in a lease of such property[;] and incurring obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(c) – (h) (No change.)

## 4. Rulemaking Matters

### b. Proposal of amendments to:

#### iii. 7 TAC Chapter 95, Subchapter A:

A. Section 95.105, Reporting

B. Section 95.108, Examinations

C. Section 95.110, Enforcement; Penalty; and Appeal

#### Background

These amendments are the result of the Department's rule review process. The amendments to §§95.105, Reporting, and 95.110, Enforcement; Penalty; and Appeal, consist of updates to the titles of other sections referenced in the rules as well as minor edits for readability. The amendments to §95.108, Examinations, incorporate provisions from §95.109, Fees and Charges, relating to fees for examinations of insuring organizations, which is recommended for repeal at this meeting.

#### Staff recommendation

Staff recommends that the Commission propose the amendments as presented.

#### Recommended motion

I move that the Commission propose the amendments to 7 TAC Sections 95.105, 95.108, and 95.110 as presented.

The Credit Union Commission proposes amendments to §§95.105, Reporting; 95.108, Examinations; and 95.110, Enforcement; Penalty; and Appeal.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, make non-substantive changes to the Department's rules. The amendments to §§95.105, Reporting, and 95.110, Enforcement; Penalty; and Appeal, consist of updates to the titles of other sections referenced in the rules as well as minor edits for readability. The amendments to §95.108, Examinations, incorporate provisions from §95.109, Fees and Charges, relating to fees for examinations of insuring organizations, which is being proposed for repeal elsewhere in this issue.

**COST TO REGULATED PERSONS.** This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

**GOVERNMENT GROWTH IMPACT STATEMENT.** In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended 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 Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

**ENVIRONMENTAL RULE ANALYSIS.** The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

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

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

**IMPACT ON LOCAL EMPLOYMENT OR ECONOMY.** There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

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

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

**REQUEST FOR PUBLIC COMMENT.** The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@ cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

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

**STATUTORY SECTIONS AFFECTED.** The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, specifically §15.402.

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

95.105 Reporting

(a) Within one hundred days after the close of each ~~[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 Call Reports and Other Information Requests ~~[Reports and Charges for Late Filing]~~).

#### 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.

(c) If the Department conducts an examination or investigation in accordance with subsection (a) of this section, the insuring organization shall pay the costs as outlined for foreign credit union examinations in §97.113(d)(3) of this title.

(d) 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), 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, 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 Appeals of Cease and Desist Orders and Orders of Removal [~~Finality and Request for SOAH Hearing~~]).

## 4. Rulemaking Matters

### b. Proposal of amendments to:

#### iv. 7 TAC Chapter 95, Subchapter C:

##### A. Section 95.302, Powers

##### B. Section 95.305, Audited Financial Statements; Accounting Procedures; Reports

##### C. Section 95.310, Fees and Charges

### Background

These amendments are the result of the Department's rule review process. The amendments would make non-substantive corrections to the titles of other rule sections referenced in these rules.

### Staff recommendation

Staff recommends that the Commission propose the amendments as presented.

### Recommended motion

I move that the Commission propose the amendments to 7 TAC Sections 95.302, 95.305, and 95.310 as presented.

The Credit Union Commission proposes amendments to §§95.302, Powers; 95.305, Audited Financial Statements; Accounting Procedures; Reports; and 95.310, Fees and Charges.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, make non-substantive corrections to the titles of other rule sections referenced in the rules.

**COST TO REGULATED PERSONS.** This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

**GOVERNMENT GROWTH IMPACT STATEMENT.** In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended 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 Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

**ENVIRONMENTAL RULE ANALYSIS.** The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

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

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

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

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

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

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

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

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

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

#### 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) – (15) (No change.)

(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 Lending Powers [~~Loans~~]);

(17) – (18) (No change.)

#### 95.305 Audited Financial Statements; Accounting Procedures; Reports

(a) – (c) (No change.)

(d) All of the provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Call Reports and Other Information Requests [~~Reports and Charges for Late Filing~~]).

#### 95.310 Fees and Charges

(a) A guaranty credit union shall pay the fees prescribed in §97.113 of this title (relating to [~~Operating~~] Fees and Charges) in the same manner as any other credit union chartered under the Act.

(b) (No change.)

## 4. Rulemaking Matters

### c. Proposed repeal of 7 TAC Section 95.109, Fees and Charges

#### Background

This proposed repeal is the result of the Department's rule review process. The repeal is being recommended in conjunction with the recommendation to add its provisions to Section 95.108, which contains related provisions regarding examinations of insuring organizations.

#### Staff recommendation

Staff recommends that the Commission propose the repeal.

#### Recommended motion

I move that the Commission propose the repeal of 7 TAC Section 95.109.

The Credit Union Commission proposes the repeal of 7 TAC §95.109, Fees and Charges.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The repeal of this section is proposed in order to combine the provisions of this section with §95.108, Examinations, being proposed for amendment elsewhere in this issue so that provisions regarding examinations of insuring organizations and the fees associated with those examinations will be in a single rule.

**COST TO REGULATED PERSONS.** This proposed repeal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

**GOVERNMENT GROWTH IMPACT STATEMENT.** In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rule as amended will be in effect, the proposed repeal 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 Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

**ENVIRONMENTAL RULE ANALYSIS.** The proposed repeal is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

**FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS.** Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed repeal is in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of this proposed repeal.

**PUBLIC BENEFIT/COST NOTE.** Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the proposed repeal is in effect, the public benefit is clarity. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the proposed repeal.

**IMPACT ON LOCAL EMPLOYMENT OR ECONOMY.** There is no reasonably anticipated effect on a local economy for the first five years that the proposed repeal is in effect. Therefore, no

economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

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

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

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed repeal and information related to the cost, benefit, or effect thereof, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed repeal. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@ cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

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

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

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

~~[95.109 Fees and Charges~~

~~(a) An insuring organization shall pay the cost associated with an examination of a foreign credit union as prescribed in §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.]~~

## 4. Rulemaking Matters

### d. Adoption of rule review and readoption of rules:

i. 7 TAC Chapter 91, Subchapter G

ii. 7 TAC Chapter 95, Subchapters A-D

#### Background

Section 2001.039 of the Government Code requires state agencies to 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 thereafter. The review must address an assessment of whether the reason for adopting each rule continues to exist. At its March 22, 2024, meeting, the Commission approved a plan that established a schedule for the review of each section of the rules. In accordance with that plan, staff has reviewed the above-referenced subchapters, believes the amendments addressed previously in this agenda are appropriate and necessary, and that the remainder of the rules within these subchapters should be readopted in accordance with Section 2001.039 of the Government Code.

Notice of the review and a request for comments on the rules in these subchapters were published in the January 23, 2026, issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting these rules continue to exist.

#### Staff recommendation

Staff recommends that the Commission find the reasons for the rules continue to exist and adopt the rule review.

#### Recommended motion

I move that the Commission find that the reasons for adopting 7 TAC Chapter 91, Subchapter G, and Chapter 95 continue to exist and readopt the rules in these subchapters.

**Title 7**

**Part VI. Credit Union Department**

**Chapter 91**

**CHARTERING, OPERATIONS, MERGERS,  
LIQUIDATIONS**

## Subchapter G. Lending Powers

### §91.701. Lending Powers.

- (a) Authorization. A credit union may originate, invest in, sell, purchase, service, or participate in loans or otherwise extend credit in accordance with the Act, these Rules, and other applicable law.
- (b) Written Policies. Before engaging in any lending activity, each credit union shall establish written lending policies that set prudent credit underwriting and documentation standards for each specific type of lending activity. The lending policies shall contain a general outline of the manner in which loans are made, serviced, and collected. In addition the policies must:
- (1) Be consistent with safe and sound credit union practices;
  - (2) Be appropriate to the size and financial condition of the credit union and the nature and scope of its operations;
  - (3) Be compatible with the size and expertise of the credit union's lending staff;
  - (4) Be compliant with all related laws and regulations;
  - (5) Be reviewed and approved by the credit union's board of directors at inception and annually, thereafter;
  - (6) Address loan portfolio diversification standards to avoid undue concentrations of risk;
  - (7) Address loan documentation and underwriting standards that are clear and measurable;
  - (8) Address loan administration procedures for monitoring the loss exposure from the loan portfolio;
  - (9) Address loan pricing guidelines to ensure that the rate of return is consistent with the risk from the lending activity; and
  - (10) State the lending authority delegated to any individuals or committees by the board of directors.
- (c) Loan Documentation. The lending policies shall include loan documentation practices that:
- (1) Enable the credit union to make an informed lending decision and to assess risk, as necessary, on an ongoing basis;
  - (2) Identify the purpose of a loan and the source of repayment, and assess the ability of the borrower to repay the indebtedness in a timely manner; and
  - (3) Ensure that any claim against a member is legally enforceable.
- (d) Credit Underwriting. A credit union shall establish and maintain prudent credit underwriting practices that:
- (1) Are commensurate with the types of loans the credit union will make and consider the terms and conditions under which they will be made;
  - (2) Consider the nature of the markets in which loans will be made;
  - (3) Provide for consideration of the member's overall financial condition and resources, the financial responsibility of any guarantor, the nature and value of any underlying collateral, and the member's character and willingness to repay as agreed;
  - (4) Take adequate account of concentration of credit risk; and
  - (5) Are appropriate to the size of the credit union and the nature and scope of its activities.
- (e) Loan Maturity Limit. Except when a higher maturity date is provided for elsewhere in this chapter, the maturity of any loan or extension of credit to a member may not exceed 15 years. Minimum payments, on a line of credit balance must be sufficient to amortize the outstanding balance over a reasonable period of time and not cause negative amortization.

(f) Liquidity. In addition to establishing controls for credit risks, credit unions shall establish procedures and guidelines to monitor and limit the total volume of loans outstanding, to ensure adequate liquidity. In setting such guidelines, the credit union shall consider various factors such as credit demand, the volatility of shares and deposits, and availability of alternative funding sources.

(g) Waivers. The commissioner in the exercise of discretion may grant a waiver in writing of any lending requirement described in this chapter. A decision to deny a waiver, however, is not subject to appeal. A waiver request must contain the following:

- (1) The requirement to be waived, the higher limit or the ratio sought;
- (2) An explanation of the need for the waiver or to raise the limit or ratio; and
- (3) Documentation supporting the credit union's ability to manage the additional risk from this activity.

*Source: The provisions of this §91.701 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6266; amended to be effective March 14, 2004, 29 TexReg 2637; amended to be effective November 9, 2006, 31 TexReg 9017; reviewed and amended to be effective November 7, 2010, 35 TexReg 9716; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.703. Interest Rates.**

(a) Loans made by each credit union shall bear interest at a rate or rates as may be determined by the credit union's board of directors. A board may delegate all or part of its power to determine the interest rates on any lending transactions. The board may also authorize a refund of interest on loans under the conditions it may prescribe.

(b) A loan may provide for variable interest rates, so long as the factor or index governing the extent of the variation is not under the control of the credit union and can be readily ascertained from sources available to the public or any other index approved in writing by the commissioner which is not available to the public.

*Source: The provisions of this §91.703 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and amended to be effective November 7, 2010, 35 TexReg 9717; reviewed and readopted to be effective June 23, 2014, 38 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.704. Real Estate Lending.**

(a) Definitions. For the purposes of this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) First lien means any mortgage that takes priority over any other lien or encumbrance on the same property and that must be satisfied before other liens or encumbrances may share in proceeds from the property's sale.

(2) Home loan means a loan that is:

(A) made to one or more individuals for personal, family, or household purposes; and

(B) secured in whole or part by:

(i) a manufactured home, as defined by Finance Code <\*>347.002, used or to be used as the borrower's principal residence; or

- (ii) real property improved by a dwelling designed for occupancy by four or fewer families and used or to be used as the borrower's principal residence.

(3) Improved residential real estate means residential real estate containing offsite improvements, such as access to streets, curbs, and utility connections, sufficient to make the property ready for residential construction, and real estate in the process of being improved by a building.

(4) Other acceptable collateral means any collateral in which the credit union has a perfected security interest, that has a quantifiable value, and is accepted by the credit union in accordance with safe and sound lending practices.

(5) Owner-occupied means that the owner of the underlying real property occupies a dwelling unit of the real property as a principal residence.

(6) Readily marketable collateral means insured deposits, financial instruments, and bullion in which the credit union has a perfected interest. Financial instruments and bullion must be saleable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market.

(b) Written Policies. Before engaging in any real estate lending, a credit union shall adopt and maintain written policies that are appropriate for the size of the credit union and the nature and scope of its operation. When formulating the real estate lending policy, the credit union should consider both internal and external factors, such as its size and condition, expertise of its lending staff, avoidance of undue concentrations of risk, compliance with all real estate laws and rules, and general market conditions. Each policy must be consistent with safe and sound lending practices and establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate, or that are made for the purpose of financing permanent improvements to real estate. The policies shall, in addition to the general requirements of §91.701(b) of this title (relating to Lending Powers), address the following, as applicable:

- (1) Title insurance;
- (2) Escrow administration;
- (3) Loan payoffs;
- (4) Collection and foreclosure; and
- (5) Servicing and participation agreements.

(c) Loan to Value Limitations.

(1) The board of directors shall establish its own internal loan-to-value limits for real estate loans based on type of loan. These internal limits, however, shall not exceed the following regulatory limits:

- (A) Unimproved land held for investment/speculation--Loan to value limit 60%
- (B) Construction and Development: commercial, multifamily, and other nonresidential--Loan to value limit 75%
- (C) Interim Construction: owner-occupied residential real estate--Loan to value limit 90%
- (D) Owner occupied residential real estate (other than home equity)--Loan to value limit 95%
- (E) Other residential real estate such as a second or vacation home--Loan to value limit 90%
- (F) Home equity--Loan to value limit 80%
- (G) All Other--Loan to value limit 80%

(2) The regulatory loan-to-value limits should be applied to the underlying property that collateralizes the loan. In determining the loan to-value ratio, a credit union shall include the aggregate amount of all sums borrowed, including the outstanding balances, plus any unfunded commitment or line of credit from all sources on an item of collateral, divided by the market value of the collateral used to secure the loan.

(d) Maximum Maturities. Notwithstanding the general 15-year maturity limit on lending transactions to members, credit unions engaged in real estate lending are expected to have loan policies that establish prudent standards for loan structure including tenor and amortization that are within the risk parameters approved by the board of directors and consistent with the following regulatory limits:

- (1) Improved residential real estate loans (principal residence, first lien)--40 years
- (2) Improved residential real estate loans (secondary residence, first lien)--30 years
- (3) Improved residential real estate loans (investment property, first lien)--20 years
- (4) Interim construction loans--18 months
- (5) Manufactured home (first lien)--20 years
- (6) Home equity loans--20 years (second lien)--30 years (first lien)
- (7) Home improvement loans--20 years
- (8) A loan secured in part, by the insurance or guarantee of, or with an advance

commitment to purchase the loan, in full or in part, by the Federal Government or any agency of the Federal Government, may be made for the maturity specified in the law, regulations or program under which the insurance, guarantee or commitment is provided

(e) Mortgage Fraud Notice. A credit union must provide to each applicant for a home loan a written notice at closing. The notice must be provided on a separate document, be in at least 14-point type, and have the following or substantially similar language: "Warning: Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of §32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000. "I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written statement to obtain a home loan. "I/we represent that all statements and representations contained in my/our written home loan application, including statements or representations regarding my/our identity, employment, annual income, and intent to occupy the residential real property secured by the home loan, are true and correct as of the date of loan closing." On receipt of the notice, the applicant shall verify the information and execute the notice. A credit union must keep the signed notice on file with the records required under §91.701 of this title.

(1) Excluded Transactions. It is recognized that there are a number of lending situations in which other factors significantly outweigh the need to apply the regulatory loan-to-value limits. As a result, an exception to the loan-to-value limits is permissible for the following loan categories: Loans that are covered through appropriate credit enhancements in the form of readily marketable collateral or other acceptable collateral.

(2) Loans guaranteed or insured by the U.S. government or its agencies, provided that the amount of the guaranty or insurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.

(3) Loans guaranteed, insured, or otherwise backed by the full faith and credit of the state, a municipality, a county government, or an agency thereof, provided that the amount of the guaranty, insurance, or assurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.

(4) Loans that are to be sold promptly after origination, without recourse, to a financially responsible third party.

(5) Loans that are renewed, refinanced, or restructured without the advancement of new funds or an increase in the line of credit (except for reasonable closing costs) where consistent with safe and sound credit union practices and part of a clearly defined and well-documented program to achieve orderly liquidation of the debt, reduce risk of loss, or maximize recovery on the loan.

(6) Loans that facilitate the sale of real estate acquired by the credit union in the ordinary course of collecting a debt previously contracted in good faith.

(f) Loans to 100% of Value. A credit union may make a loan in an amount up to 100% of the value of real property security if that part of the loan that exceeds the regulatory loan-to-value limit is guaranteed or insured by a private corporation, organization, or other entity. The board of directors must ensure that the credit union exercises appropriate due diligence to ensure that any such guarantor or insurer has the financial capacity and willingness to perform under the terms of the guaranty or insurance agreement.

(g) Registration of residential mortgage loan originators. Title V of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) requires employees of a credit union who engage in the business of a mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry and to obtain a unique identifier. A credit union must comply with the requirements imposed by Part 761 of the NCUA Rules and Regulations.

*Source: The provisions of this §91.704 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6267; amended to be effective November 9, 2006, 31 TexReg 9018; amended to be effective March 2, 2008, 33 TexReg 1515; amended to be effective March 4, 2009, 34 TexReg 1399; reviewed and amended to be effective November 7, 2010, 35 TexReg 9718; reviewed and amended to be effective November 9, 2014, 39 TexReg 8572; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.705. Home Improvement Loans.**

In addition to the requirements of this chapter, all loans in which the proceeds are used to construct new improvements or renovate existing improvements on a homestead property must also comply with the requirements of Section 50(a)(5), Article XVI, Texas Constitution.

*Source: The provisions of this §91.705 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.706. Home Equity Loans.**

For any loan secured by an encumbrance against the equity in a homestead property, the terms and conditions set forth in this chapter and in Section 50, Article XVI, Texas Constitution will apply. If there is an irreconcilable conflict between a constitutional provision and the provision of this section, the constitutional requirement shall prevail.

*Source: The provisions of this §91.706 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.707. Reverse Mortgages.**

A credit union may offer reverse mortgages to its members under the terms and conditions set forth in Section 50, Article XVI, Texas Constitution and other applicable law. In the event of an irreconcilable conflict between any specific requirement contained in this section and a constitutional provision, the constitutional requirement shall prevail.

*Source: The provisions of this §91.707 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.708. Real Estate Appraisals or Evaluations.**

- (a) **Policies and Procedures.** A credit union's board of directors is responsible for reviewing and adopting policies and procedures that establish and maintain an effective, independent real estate appraisal and evaluation program. A credit union's selection criteria for individuals who may perform appraisals or evaluations must provide for the independence of the individual performing the evaluation. That is, the individual has neither a direct nor indirect interest, financial or otherwise, in the property or transaction. The individual selected must also be competent to perform the assignment based upon the individual's qualifications, experience, and educational background. An individual may be an employee of a credit union if the individual qualifies under the conditions and requirements contained in Part 722 of the National Credit Union Administration Rules and Regulations.
- (b) **Loans Over \$400,000.** For real estate loans in which the loan amount or extension of credit exceeds \$400,000, the credit union shall obtain a professional appraisal report by a state certified or licensed appraiser. The appraisal report shall be in writing and conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, in Washington, D.C.
- (c) **Loans \$400,000 or Less.** For real estate loans with a loan amount or extension of credit of \$400,000 or less, the services of a state certified or licensed appraiser is not necessary; however, the credit union must obtain an appropriate evaluation of real property collateral that is supported by a written estimate of market value either performed by a qualified individual who has demonstrated competency in performing evaluations or from tax appraisal data of a governmental entity.
- (d) **Right to Require an Appraisal.** The commissioner may require an appraisal under this section, at the expense of the credit union, when the commissioner has reasonable cause to believe the value of the collateral is overstated.
- (e) **Existing Loans.** In the case of renewal of a loan where there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of additional funds, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this section.
- (f) **Other Appraisal Requirements.** A credit union shall also comply with applicable real estate appraisal requirements contained within Part 722 of the National Credit Union Administration Rules and Regulations.

*Source: The provisions of this §91.708 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 11, 2002, 27 TexReg 6834; amended to be effective August 10, 2003, 28 TexReg 6267; amended to be effective November 9, 2006, 31 TexReg 9018; reviewed and amended to be effective November 7, 2010, 35 TexReg 9720; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and amended to be effective August 30, 2020, 45 TexReg 5906; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.709. Member Business and Commercial Loans.**

(a) Definitions. Definitions in TEX. FIN. CODE §121.002, are incorporated herein by reference. As used in this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) “Borrower” means a member or any other person named as a borrower, obligor, or debtor in a loan or extension of credit; or any other person, including, but not limited to, a comaker, drawer, endorser, guarantor or surety who is considered to be a borrower under the requirements of subsection (i) of this section concerning aggregation and attribution for commercial loans.

(2) “Commercial loan” means a loan or an extension of credit to an individual, sole proprietorship, partnership, corporation, or business enterprise for commercial, industrial, agricultural, or professional purposes, including construction and development loans, any unfunded commitments, and any interest a credit union obtains in such loans made by another lender. A commercial loan does not include a loan made for personal expenditure purposes; a loan made by a corporate credit union; a loan made by a credit union to a federally insured credit union; a loan made by a credit union to a credit union service organization; a loan secured by a 1- to 4-family residential property (whether or not the residential property is the borrower’s primary residence); a loan fully secured by shares in the credit union making the extension of credit or deposits in another financial institution; a loan secured by a vehicle manufactured for household use; and a loan that would otherwise meet the definition of commercial loan and which, when the aggregate outstanding balance plus unfunded commitments less any portion secured by shares in the credit union to a borrower, is equal to less than \$50,000.

(3) “Control” means a person directly or indirectly, or acting through or together with one or more persons who:

(A) own, control, or have the power to vote twenty-five (25) percent or more of any class of voting securities of another person;

(B) control, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or

(C) have the power to exercise a controlling influence over the management or policies of another person.

(4) “Immediate family member” means a spouse or other family member living in the same household.

(5) “Loan secured by a lien on a 1- to 4-family residential property” means a loan that, at origination, is secured wholly or substantially by a lien on a 1- to 4-family residential property for which the lien is central to the extension of the credit; that is the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1- to 4-family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than fifty (50) percent of the principal amount of the loan.

(6) “Loan secured by a lien on a vehicle manufactured for household use” means a loan that, at origination, is secured wholly or substantially by a lien on a new and used passenger car or other vehicle such as a minivan, sport-utility vehicle, pickup truck, and similar light truck or heavy-duty truck generally manufactured for personal, family, or household use and not used as a fleet vehicle or to carry fare-paying passengers, for which the lien is central to the extension of credit. A lien is central to the extension of credit if the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan wholly or substantially secured by a lien on a vehicle manufactured for household use if the estimated value of the collateral at origination (after deducting any senior liens held by others) is greater than fifty (50) percent of the principal amount of the loan.

(7) “Loan-to-value ratio for collateral” means the aggregate amount of all sums borrowed and secured by the collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union’s lien, divided by the current collateral value. The current collateral value must be established by prudent and accepted commercial loan practices and comply with all regulatory requirements.

(8) “Member business loan” has the meaning assigned by 12 C.F.R. Part 723.

(9) “Net worth” has the meaning assigned by 12 C.F.R. Part 702.2.

(10) “Readily marketable collateral” means financial instruments and bullion that are salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.

(11) “Residential property” means a house, townhouse, condominium unit, cooperative unit, manufactured home, a combination of a home or dwelling unit and a business property that involves only minor or incidental business use, real property to be improved by the construction of such structures, or unimproved land zoned for 1- to 4-family residential use but does not include a boat, motor home, or timeshare property, even if used as a primary residence. This applies to such structure whether under construction or completed.

(b) Parity. A credit union may make, commit to make, purchase, or commit to purchase any member business loan it could make if it were operating as a federal credit union domiciled in this state, so long as for each transaction the credit union complies with all applicable regulations governing such activities by federal credit unions. However, all such loans must be documented in accordance with the applicable requirements of this chapter.

(c) Commercial Loan Responsibilities and Operational Requirements. Prior to engaging in the business of making commercial loans, a credit union must address the responsibilities and operational requirements under this subsection:

(1) Written policies. A credit union must establish comprehensive written commercial loan policies approved by its board of directors instituting prudent loan approval, credit underwriting, loan documentation, and loan monitoring standards in accordance with this paragraph. The board must review its policies at least annually and, additionally, prior to any material change in the credit union’s commercial lending program or related organizational structure, in response to any material change in the credit union’s overall portfolio performance, or in response to any material change in economic conditions affecting the credit union. The board must update its policies when warranted. Policies under this paragraph must be designed to identify:

(A) type(s) of commercial loans permitted;

(B) trade area;

(C) the maximum amount of assets, in relation to net worth, allowed in secured, unsecured, and unguaranteed commercial loans and in any given category or type of commercial

loan and to any one borrower;

(D) credit underwriting standards including potential safety and soundness concerns to ensure that action is taken to address those concerns before they pose a risk to the credit union's net worth; the size and complexity of the loan as appropriate to the size of the credit union; the scope of the credit union's commercial loan activities; the level and depth of financial analysis necessary to evaluate financial trends and the condition of the borrower and the ability of the borrower to meet debt service requirements; requirements for a borrower-prepared projection when historic performance does not support projected debt payments; the financial statement quality and degree of verification sufficient to support an accurate financial analysis and risk assessment; the methods to be used in evaluating collateral authorized, including loan-to-value ratio limits; the means to secure various types of collateral; and other risk assessment analyses including analysis of the impact of current market conditions on the borrower.

(E) loan approval standards including consideration, prior to credit commitment, of the borrower's overall financial condition and resources; the financial stability of any guarantor; the nature and value of underlying collateral; environmental assessment requirements; the borrower's character and willingness to repay as agreed; the use of loan covenants when warranted; and the levels of loan approval authority commensurate with the proficiency of the individuals or committee of the credit union tasked with such approval authority in evaluating and understanding commercial loan risk, when considered in terms of the level of risk the borrowing relationship poses to the credit union;

(F) loan monitoring standards including a system of independent, ongoing credit review and appropriate communication to senior management and the board of directors; the concentration of credit risk; and the risk management systems under subsection (d) of this section; and

(G) loan documentation standards including enabling the credit union to make informed lending decisions and assess risk, as necessary, on an ongoing basis; identifying the purpose of each loan and source(s) of repayment; assessing the ability of each borrower to repay the indebtedness in a timely manner; ensuring that any claim against a borrower is legally enforceable; and demonstrating appropriate administration and monitoring of each loan.

(2) Qualified Staff. A credit union must ensure that it is appropriately staffed with qualified personnel with relevant and necessary expertise and experience for the types of commercial lending in which the credit union is engaged, including appropriate experience in underwriting, processing, overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system and collections and loss mitigation activities for the types of commercial lending in which the credit union is engaged. At a minimum, a credit union making, purchasing, or holding any commercial loans must internally have a senior management employee that has a thorough understanding of the role of commercial lending in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending as provided by subsection (d) of this section.

(3) Use of Third-Party Experience. A third party may provide the requisite expertise and experience necessary for a credit union to safely conduct commercial lending if:

(A) the third party has no affiliation or contractual relationship with the borrower;

(B) the third party is independent from the commercial loan transaction and does not have a participation interest in a loan or an interest in any collateral securing a loan that the third party is responsible for reviewing, or an expectation of receiving compensation of any sort that is contingent on the closing of the loan, with the following exceptions:

(i) the third party may provide a service to the credit union that is

related to the transaction, such as loan servicing;

(ii) the third party may provide the requisite experience to a credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed; and

(iii) the third party is a credit union service organization and the credit union has a controlling financial interest in the credit union service organization as determined under generally accepted accounting principles.

(C) the actual decision to grant a commercial loan resides with the credit union; and

(D) qualified credit union staff exercise ongoing oversight over the third party by regularly evaluating the quality of any work the third party performs for the credit union.

(4) De Minimis Exception. The responsibilities and operational requirements described in paragraphs (1) and (2) of this subsection do not apply to a credit union if it meets all of the following conditions:

(A) the credit union's total assets are less than \$250 million;

(B) the credit union's aggregate amount of outstanding commercial loan balances (including any unfunded commitments, any outstanding commercial loan balances and unfunded commitments of participations sold, and any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union) total less than fifteen (15) percent of the credit union's net worth; and

(C) in a given calendar year, the amount of originated and sold commercial loans and the amount of originated and sold commercial loans the credit union does not continue to service, total fifteen (15) percent or less of the credit union's net worth.

(D) A credit union that relies on this de minimis exception is prohibited from engaging in any acts or practices that have the effect of evading the requirements of this subsection.

(d) Commercial Loan Risk Management Systems.

(1) Risk Management Processes. A credit union's risk management process must be commensurate with the size, scope and complexity of the credit union's commercial lending activities and borrowing relationships. The processes must, at a minimum, address the following:

(A) use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;

(B) periodic loan review, consistent with loan covenants and sufficient to conduct portfolio risk management, which, based upon current market conditions and trends, loan risk, and collateral conditions, must include a periodic reevaluation of the value and marketability of any collateral, and an updated loan-to-value ratio for collateral calculation;

(C) a credit risk rating system under paragraph (2) of this subsection; and

(D) a process to identify, report, and monitor commercial loans that are approved by the credit union as exceptions to the credit union's loan policies.

(2) Credit Risk Rating System. The credit risk rating system must be a formal process that identifies and assigns a relative credit risk rating to each commercial loan in a credit union's portfolio, using ordinal ratings to represent the degree of risk. The credit risk score must be determined through an evaluation of quantitative factors based on the financial performance of each commercial loan and qualitative factors based on the credit union's management, operational, market, and business environment factors. A credit risk rating must be assigned to each commercial loan at the inception of the loan. A credit risk rating must be reviewed as frequently as necessary to satisfy the credit union's risk monitoring and reporting policies, and to ensure adequate reserves as required by generally accepted accounting principles.

(3) Independent Review. Periodic independent reviews should be conducted by a person

who is both qualified to conduct such a review and independent of the function being reviewed. The review should provide an objective assessment of the overall commercial loan portfolio quality and verify the accuracy of ratings and the operational effectiveness of the credit union's risk management processes. A credit union is not required to hire an outside third party to conduct this independent review, if it can be done in-house by a competent person that is considered unconnected to the function being reviewed.

(e) Collateral and Security for Commercial Loans.

(1) Collateral. A commercial loan must be secured by collateral commensurate with the level of risk associated with the size and type of the commercial loan. The collateral must be sufficient to ensure the credit union is protected by a prudent loan-to-value ratio for collateral along with appropriate risk sharing with the borrower and principal(s). A credit union making an unsecured commercial loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk of making an unsecured loan.

(2) Personal Guarantees. A credit union that does not require the full and unconditional personal guarantee from all principals of the borrower who have a controlling interest, as defined by subsection (a)(3) of this section, in the borrower must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.

(f) Construction and Development Loans.

(1) Terms. In this subsection:

(A) "construction or development loan" means any financing arrangement to enable the borrower to acquire property or rights to property, including land or structures, with the intent to construct or renovate an income producing property, such as residential housing for rental or sale, or a commercial building, that may be used for commercial, agricultural, industrial, or other similar purposes. It also means a financing arrangement for the construction, major expansion or renovation of the property types referenced in this subsection. The collateral valuation for securing a construction or development loan depends on the satisfactory completion of the proposed construction or renovation where the loan proceeds are disbursed in increments as the work is completed. A loan to finance maintenance, repairs, or other improvements to an existing income-producing property that does not change the property's use or does not materially impact the property is not a construction or development loan.

(B) "cost to complete" means the sum of all qualifying costs necessary to complete a construction project and documented in an approved construction budget. Qualifying costs generally include on- or off-site improvements; building construction; other reasonable and customary costs paid to construct or improve a project, including a general contractor's fees; other expenses normally included in a construction contract such as bonding and contractor insurance; the value of the land, determined as the sum of the cost of any improvements to the land and the lesser of appraised market value or purchase price; interest as provided by this subparagraph; project costs as provided by this subparagraph; a contingency account to fund unanticipated overruns; and other development costs such as fees and related pre-development expenses. Interest expense is a qualifying cost only to the extent it is included in the construction budget and is calculated based on the projected changes in the loan balance up to the expected "as-complete" date for owner-occupied non-income-producing commercial real property or the "as stabilized" date for income-producing real estate. Project costs for related parties, such as developer fees, leasing expenses, brokerage commissions and management fees, are included in qualifying costs only if reasonable in comparison to the cost of similar services from a third party. Qualifying costs exclude interest or preferred returns payable to equity partners or subordinated debt holders, the developer's general corporate overhead, and selling costs to be funded out of sales proceeds such as brokerage commissions and other closing costs.

(C) “prospective market value” means the market value opinion determined by an independent appraiser in compliance with the relevant standards set forth in the Uniform Standards of Professional Appraisal Practice. Prospective value opinions are intended to reflect the current expectations and perceptions of market participants, based on available data. Two (2) prospective value opinions may be required to reflect the time frame during which development, construction, or occupancy occur. The prospective market value “as-completed” reflects the real property’s market value as of the time that development is to be completed. The prospective market value “as-stabilized” reflects the real property’s market value as of the time the real property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the real property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar real properties.

(2) Policies. A credit union that elects to make a construction or development loan must ensure that its commercial loan policies under subsection (c) of this section meets the following conditions:

(A) qualified personnel representing the interest of the credit union must conduct a review and approval of any line item construction budget prior to closing the loan;

(B) a requisition and loan disbursement process approved by the credit union is established;

(C) release or disbursement of loan funds occurs only after on-site inspections which are documented in a written report by qualified personnel who represents the interest of the credit union and certifies that the work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan is sufficient to complete the project; and

(D) each loan disbursement is subject to confirmation that no intervening liens have been filed.

(3) Establishing Collateral Values. The current collateral value must be established by prudent and accepted commercial loan practices and comply with all regulatory requirements. The collateral value depends on the satisfactory completion of the proposed construction or renovation where the loan proceeds are disbursed in increments as the work is completed and is the lesser of the project’s cost to complete or its prospective market value.

(4) Controls and Processes for Loan Advances. A credit union that elects to make a construction and development loan must have effective commercial loan control procedures in place to ensure sound loan advances and that liens are paid and released in a timely manner. Effective controls should include segregation of duties, delegation of duties to appropriate qualified personnel, and dual approval of loan disbursements.

(g) Commercial Loan Prohibitions.

(1) Ineligible borrowers. A credit union may not grant a commercial loan to the following:

(A) any senior management employee directly or indirectly involved in the credit union’s commercial loan underwriting, servicing, and collection process, and any of their immediate family members;

(B) any person meeting the requirements of subsection (i) of this section concerning aggregations and attribution for commercial loans, with respect to persons identified in subparagraph (A) of this paragraph; or

(C) any director, unless the credit union’s board of directors approves granting the loan and the borrowing director was recused from the board’s decision making process.

(2) Equity Agreements and Joint Ventures. A credit union may not grant a commercial loan if any additional income received by the credit union or its senior management employees is

ted to the profit or sale of any business or commercial endeavor that benefits from the proceeds of the loan.

(3) Fees. No director, committee member, volunteer official, or senior management employee of a credit union, or immediate family member of such director, committee member, volunteer official, or senior management employee, may receive, directly or indirectly, any commission, fee, or other compensation in connection with any commercial loan made by the credit union. Employees, other than senior management, may be partially compensated on a commission or performance based incentive, provided the compensation is governed by a written policy and internal controls established by the board of directors. The board must review the policies and controls at least annually to ensure that such compensation is not excessive or expose the credit union to inappropriate risks that could lead to material financial loss. Loan origination employees are prohibited from receiving, in connection with any commercial loan made by the credit union, any compensation from any source other than the credit union. For the purposes of this paragraph, compensation includes non-monetary items and anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary has a direct and substantial interest, but compensation does not include nonmonetary items of nominal value.

(h) Aggregate Member Business Loan Limit.

(1) Limits. The aggregate limit on a credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under 12 U.S.C. Section 1790d(c)(1)(A). For purposes of this calculation, member business loan means any commercial loan, except that the following commercial loans are not member business loans and are not counted toward the aggregate limit on member business loans:

(A) any loan in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full;

(B) any non-member commercial loan or non-member participation interest in a commercial loan made by another lender, provided the credit union acquired the non-member loans or participation interest in compliance with applicable laws and the credit union is not, in conjunction with one or more other credit unions, trading member business loans to circumvent the aggregate limit under this subsection; and

(C) any loan that is fully secured by a lien on a 1- to 4- family dwelling.

(2) Exceptions. Any loan secured by a lien on a vehicle manufactured for household use that will be used for commercial, corporate, or other business investment property or venture, and any other loan for an agricultural purpose are not commercial loans (if the outstanding aggregate net member business loan balance is \$50,000 or greater), and must be counted toward the aggregate limit on a credit union's member business loans under this subsection.

(3) Exemption. A credit union that has a federal low-income designation, or participates in the federal Community Development Financial Institution program, or was chartered for the purpose of making member business loans, or which as of the date of the Credit Union Membership Access Act of 1998 had a history of primarily making commercial loans, is exempt from compliance with the aggregate member business loan limits in paragraph (1) of this subsection.

(4) Method of Calculation for Net Member Business Loan Balance. For the purposes of NCUA form 5300 reporting (call report), a credit union's net member business loan balance is determined by calculating the sum of the outstanding loan balance plus any unfunded commitments and reducing that sum by any portion of the loan that is: secured by shares in the credit union, by shares or deposits in other financial institutions, or by a lien on a borrower's primary residence; insured or guaranteed by any agency of the federal government, a state, or any

political subdivision of a state; or subject to an advance commitment to purchase by any agency of the federal government, a state, or any political subdivision of a state; or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

(i) Aggregation and Attribution for Commercial Loans.

(1) General Rule. A commercial loan or extension of credit to one borrower is attributed to another person, and each person will be considered a borrower, when:

(A) the proceeds of the commercial loan or extension of credit are to be used for the direct benefit of the other person, to the extent of the proceeds so used, as provided by paragraph (2) of this subsection;

(B) a common enterprise is deemed to exist between the persons as persons as provided by paragraph (3) of this subsection; or

(C) the expected source of repayment for each commercial loan or extension of credit is the same for each person as provided by paragraph (3) of this subsection.

(2) Direct Benefit. The proceeds of a commercial loan or extension of credit to a borrower is considered used for the direct benefit of another person and attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred in any manner to or for the benefit of the other person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services from such other person.

(3) Common Enterprise.

(A) Description. A common enterprise is considered to exist and commercial loans to separate borrowers will be aggregated when:

(i) the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment under this subparagraph because of wages and salaries paid to an employee, unless the standards of clause (ii) of this subparagraph are met:

(ii) the loans or extension of credit are made:

(I) to borrowers who are related directly or indirectly through control as defined by subsection (a) of this section; and

(II) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when fifty (50) percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and other similar receipts or payments;

(iii) separate persons borrow from a credit union to acquire a business of enterprise of which those borrowers will own more than fifty (50) percent of the voting securities of voting interest, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loans; or

(iv) the Department determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

(B) Commercial Loans to Certain Entities. A commercial loan or extension of credit:

(i) to a partnership or joint venture is considered to be a commercial loan or extension of credit to each member of the partnership or joint venture. Excepted from this subdivision is a partner or member who: is not held generally liable, by the terms of the partnership or membership agreement or by applicable law, for the debts or actions of the partnership, joint

venture, or association, provided those terms are valid against third parties under applicable law; and has not otherwise agreed to guarantee or be personally liable on the loan or extension of credit.

(ii) to a member of a partnership, joint venture, or association is generally not attributed to the partnership, joint venture, or associations, or to other members of the partnership, joint venture, or association, except as otherwise provided by paragraphs (2) and (3) of this subsection, provided that a commercial loan or extension of credit made to a member of a partnership, joint venture or association for the purpose of purchasing an interest in the partnership, joint venture or association, is attributed to the partnership, joint venture or association.

(C) Guarantors and Accommodation Parties. The derivative obligation of a drawer, endorser, or guarantor of a commercial loan or extension of credit, including a contingent obligation to purchase collateral that secures a commercial loan, is aggregated with other direct commercial loans or extensions of credit to such a drawer, endorser, or guarantor.

(j) Commercial Loans to One Borrower Limit. The total aggregate dollar amount of commercial loans by a credit union to any borrower at one time may not exceed the greater of fifteen (15) percent of the credit union's net worth or \$100,000, plus an additional ten (10) percent of the credit union's net worth if the amount that exceeds the credit union's fifteen (15) percent general limit is fully secured at all times with a perfected security interest in readily marketable collateral. Any insured or guaranteed portion of a commercial loan made through a program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the commercial loan in full, is excluded from this limit.

(k) Finance Code Limitation. In addition to the other limitations of this section, a credit union may not make a loan to a member or a business interest of the member if the loan would cause the aggregate amount of loans to the member and the member's business interests to exceed an amount equal to 10 percent of the credit union's total assets as provided by TEX. FIN. CODE §124.003.

(l) Commercial Loans Regarding Federal or State Guaranteed Loan Programs. A credit union may follow the loan requirements and limits of a guaranteed loan program for loans that are part of a loan program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full if that program has requirements that are less restrictive than those required by this section.

(m) Transitional Provisions.

(1) Waivers. Upon the effective date of this section, any waiver approved by the Department concerning a credit union's commercial lending activity is rendered moot, except for waivers granted for the commercial loan to one borrower limit. Borrowing relationships granted by waivers will be grandfathered however, the debt associated with those relationships may not be increased.

(2) Administrative Constraints. Limitations or other conditions imposed on a credit union in any written directive from the Department are unaffected by the adoption of this section. As of the effective date of this section, all such limitations or other conditions remain in place until such time as they are modified by the Department.

*Source: The provisions of this §91.709 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective February 23, 2003, 28 TexReg 1377; amended to be effective on March 6, 2005, 30 TexReg 1065; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; amended to be effective on January 1, 2017, 41 TexReg 9099; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and amended to be effective November 5, 2018, 43 TexReg 7343; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.710. Overdraft Protection.**

(a) **Written Policy.** A credit union may advance money to a member to cover an account deficit without having a credit application from the borrower on file if the credit union has written policies and procedures adequate to address the credit, operational, and other risks associated with this type of program. The policy must:

1. Set a cap on the total dollar amount of all overdrafts the credit union will honor consistent with the credit union's ability to absorb losses;
  2. Establish a time limit no later than 60 calendar days from the date first overdrawn to charge off the overdraft balance if the member does not repay the overdraft balance, or does not obtain an approved loan from the credit union;
  3. Limit the dollar amount of overdrafts the credit union will honor per account;
  4. Institute prudent practices related to suspension of overdraft protection services;
- and
5. Establish the fee, if any, the credit union will charge members for honoring overdrafts.

(b) **Safety and Soundness Requirements.** A credit union must manage the risks associated with an overdraft protection program in accordance with safe and sound credit union principles. Accordingly, a credit union must establish and maintain effective risk management and control processes over its program. Such processes include appropriate recognition, treatment, and financial reporting, in accordance with generally accepted accounting principles, of income, expenses, assets, liabilities, and all expected and unexpected losses associated with the program. A credit union also shall assess the adequacy of its internal control and risk mitigation activities in view of the nature and scope of its overdraft protection program.

(c) **Communications with Member.** A credit union shall carefully review its overdraft protection program to ensure that marketing and other communications concerning the program do not mislead members to believe that the program is a traditional line of credit or that payment of overdrafts is guaranteed. In addition, a credit union shall take reasonable precautions to make sure members are not misled about the correct amount of their account balance, or the costs or scope of the overdraft protection offered, and that it does not encourage irresponsible member financial behavior that potentially may increase risk to the credit union.

(d) **Other Requirements.** A credit union shall also comply with the overdraft service requirements contained within Part 205 of the Federal Reserve System Rules and Regulations (Regulation E).

*Source: The provisions of this §91.710 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6267; amended to be effective November 9, 2006, 31 TexReg 9019; reviewed and amended to be effective November 7, 2010, 35 TexReg 9720; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.711. Purchase and Sale of Member Loans.**

(a) **Policies.** A credit union may sell or purchase all or part of a participation interest in a member loan or pool of member loans in accordance with written policies adopted by the board of directors that address the following matters:

- (1) The type of entities to which the credit union is authorized to sell participation interests in member loans;
- (2) The types of member loans in which the credit union may purchase or sell a participation interest and the types of participation interests which may be purchased or sold;

- (3) The underwriting standards to be applied in the purchase of participation interests in member loans;
  - (4) Limitations on the aggregate principal amount of participation interest in member loans that the credit union may purchase from a single entity as necessary to diversify risk, and limitations on the aggregate amount the credit union may purchase from all entities;
  - (5) Provision for the identification and reporting of member loans in which participation interests are sold or purchased; and
  - (6) Requirements for providing and securing in a timely manner adequate credit and other information needed to make an independent judgment.
- (b) Purchase and Sale Agreements. The sale or purchase of a member loan or participation interest must be based on a written agreement between the parties. Agreements to purchase or sell a member loan or a participation interest shall, at a minimum:
- (1) Identify the particular member loan(s) to be covered by the agreement;
  - (2) Provide for the transfer of credit and other borrower information on a timely and continuing basis;
  - (3) Provide for sharing, dividing, or assigning collateral;
  - (4) Identify the nature of the participation interest(s) sold or purchased;
  - (5) Set forth the rights and obligations of the parties and the terms and conditions of the sale; and
  - (6) Contain any terms necessary for the appropriate administration of the member loan and the protection of the participation interests of the credit union.
- (c) Member Loan Servicing. A credit union may sell to or purchase from any participant the servicing of any member loan in which it owns a participation interest. If a party other than the credit union will be servicing the member loan(s), the credit union shall ensure that all contracts require the servicer to administer the member loan(s) in accordance with prudent industry standards, and provide for a possible change of the servicer if performance is inadequate.
- (d) Definition. For purposes of this section, a member loan means a loan or extension of credit where the borrower(s) is a member of the credit union or a member of another participating credit union.
- (e) Independent Credit Judgment. A credit union that purchases a participation interest in a member loan has the responsibility of conducting member loan underwriting procedures on the member loan to determine that it complies with the policies of the credit union and meets the credit union's credit standards. The credit union shall make a judgment on the creditworthiness of the borrower that is independent of the originating lender and any intermediary seller prior to the purchase of the participation interest and prior to any servicing action that alters the terms of the original agreement. This credit judgment may not be delegated to any person that is not an employee or independent agent of the credit union. A credit union that purchases a participation interest in a member loan may use information, such as appraisals or collateral inspections, furnished by the originating lender, or any intermediary seller; however, the purchasing credit union shall independently evaluate such information when exercising its independent credit judgment. The independent credit judgment shall be documented by a credit analysis that considers the underwriting, documentation, and compliance standards that would be required by a prudent lender and shall include an evaluation of the capacity and reliability of the servicer.
- (f) Other Requirements. A credit union purchasing a participation interest in a member loan from a lender that is not a credit union insured by the National Credit Union Share Insurance Fund, must also comply with applicable requirements contained within Part 741 of the National Credit Union Administration Rules and Regulations.

(g) Sales with Recourse. When a member loan or participation interest is sold with recourse, it shall be considered, to the extent of the recourse, an extension of credit by the purchaser to the seller, as well as an extension of credit from the seller to the borrower(s).

*Source: The provisions of this §91.711 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6268; amended to be effective November 9, 2006, 31 TexReg 9019; reviewed and amended to be effective November 7, 2010, 35 TexReg 9720; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

## **§91.712. Plastic Cards.**

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

(1) Card Activation – process of sending new plastic cards from the issuer to the legitimate cardholder in an “inactive” mode and making the card usable. Upon receiving the card, the legitimate cardholder must call or log on to the issuer/processor’s website and go through a member verification process before the card is “activated”.

(2) Card Security Code – a set of unique numbers encoded on the magnetic strip of plastic cards used to combat counterfeit fraud.

(3) Neural Network – a computer program that monitors usage patterns of an account and typical fraud patterns. The program analyzes activity to determine fraud risk scores to detect potentially fraudulent activity.

(4) Plastic Cards – includes credit cards, debit cards, automated teller machine (ATM) or specific network cards; and predetermined stored value and smart cards with micro-processor chips.

(b) Credit cards. A credit union may issue credit cards in accordance with the credit union’s written policies, which shall include at a minimum:

(1) Credit policies to set individual limits for credit card accounts;

(2) A process for reviewing each member’s payment and/or credit history periodically for the purpose of determining risk; and

(3) The credit underwriting standards for each type of card program offered.

(c) Program Review.

(1) A credit union shall review, on at least an annual basis, its plastic card program with particular emphasis on:

(A) The amount of losses caused by theft and fraud;

(B) The loss prevention measures (and their adequacy) currently employed by the credit union;

(C) The availability and possible implementation of other loss prevention measures such as card activation, card security codes, neural networks, and other evolving technology; and

(D) A cost benefit analysis of supplemental insurance coverage for theft and fraud related losses.

(2) The review shall be documented in writing, with any approved changes to the plastic card program being entered into the minutes of the board meeting.

*Source: The provisions of this §91.712 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6268; amended to be effective November 9, 2006, 31, TexReg 9020; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4955; reviewed and amended to be effective November 5, 2018, 43 TexReg 7343; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.713. Indirect Lending.**

- (a) Indirect Lending Program. Credit unions may implement a program of indirect financing of motor vehicles and other tangible personal property. As used in this chapter, an indirect financing is the credit union's purchase of a member's retail installment contract that is originated by a seller to finance the purchase of the motor vehicle or other property.
- (b) Contracts Treated as a Loan. For the purposes of this chapter, a retail installment contract purchased under this authority may be treated as a loan on the books and records of the credit union and is subject to the same limitations and restrictions imposed upon loan transactions. As with other lending, the credit union is responsible for making the final underwriting decision. The seller may initially determine whether the prospective buyer is a member or eligible for membership in the credit union, but the final determination of membership eligibility is the credit union's responsibility.
- (c) Authorization. Credit unions may purchase or hold retail installment contracts when authorized by applicable law. The retail installment contract must provide for a rate or amount of time price differential that does not exceed a rate or amount authorized by applicable law.
- (d) Written Policies. The board of directors shall establish, implement, and maintain prudent and reasonable written policies that are appropriate for the size and complexity of the credit union's indirect lending program. The board must also ensure that the credit union has sufficient staff with the expertise to purchase, service, and monitor the program and the contract portfolio consistent with safe and sound credit union practices. The policies must be specific and detailed enough to foster prudent and compliant credit practices.
- (e) Third Party Providers. A credit union may rely on services provided by third parties to support its indirect lending activities. The board of directors must ensure that the credit union exercises appropriate due diligence before entering into third party arrangements, and maintains effective oversight and control throughout the arrangement. This oversight and control should include a periodic review of each material seller's retail installment contract statistics to ensure compliance with credit union credit criteria and to avoid undue concentrations of risk.
- (f) Subprime Indirect Lending. If a credit union conducts a program that includes subprime indirect lending, it must perform comprehensive due diligence before engaging in and during that type of activity. At a minimum, due diligence shall focus on understanding the higher levels of credit, compliance, reputation, and other risks involved, plus the likelihood that origination, servicing, collections, operating, and capital costs will increase. The strategic decision to engage in subprime indirect lending must also be supported by a sound business plan that establishes measurable financial objectives as well as limitations on growth, volume, and concentrations. For the purposes of this section, "subprime indirect lending" refers to programs that target borrowers with weakened credit histories typically characterized by payment delinquencies, previous charge-offs, judgments, or bankruptcies. Such programs may also target borrowers with questionable repayment capacity evidenced by low credit scores or high debt-burden ratios.

*Source: The provisions of this §91.713 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6268; amended to be effective November 12, 2006, 31 TexReg 9020; reviewed and amended to be effective November 7, 2010, 35 TexReg 9721; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.714. Leasing.**

- (a) Definitions. For the purposes of this section:

(1) The term net lease means a lease under which the credit union will not, directly or indirectly, provide or be obligated to provide for:

(A) the servicing, repair or maintenance of leased property during the lease term;

(B) the purchasing of parts and accessories for the leased property, except that improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of subsection (c)(2)(A) of this section;

(C) the loan of replacement or substitute property while the leased property is being serviced;

(D) the purchasing of insurance for the lessee, except where the lessee has failed to discharge a contractual obligation to purchase or maintain insurance; or

(E) the renewal of any license, registration, or filing for the property unless such action by the credit union is necessary to protect its interest as an owner or financier of the property.

(2) The term full-payout lease means a lease transaction in which any unguaranteed portion of the estimated residual value relied on by the credit union to yield the return of its full investment in the lease property, plus the estimated cost of financing the property over the term of the lease, does not exceed 25% of the original cost of the property to the lessor. In general, a lease will qualify as a full payout lease if the scheduled payments provide at least 75% of the principal and interest payments that a lessor would receive if the finance lease were structured as a market-rate loan.

(3) The term realization of investment means that a credit union that enters into a lease financing transaction must reasonably expect to realize the return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease from:

(A) Rentals; and

(B) The estimated residual value of the property at the expiration of the term of the lease.

(b) Permissible Activities. Subject to the limitations of this section, a credit union may engage in leasing activities. These activities include becoming the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property, obtaining an assignment of a lessor's interest in a lease of such property, and incurring obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(c) Finance Leasing.

(1) A credit union may conduct leasing activities that are functional equivalent of loans made under those leases. Such financing leases are subject to the same restrictions that would be applicable to a loan.

(2) To qualify as the functional equivalent of a loan:

(A) The lease must be a net, full-payout lease representing a non-cancelable obligation of the lessee, notwithstanding the possible early termination of the lease;

(B) The portion of the estimated residual value of the property relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property depends primarily on the creditworthiness of the lessee, and not on the residual market value of the leased property; and

(C) At the termination of the financing lease, either by expiration or default, property acquired must be liquidated or released on a net basis as soon as practicable. Any property held in anticipation of releasing must be reevaluated and recorded at the lower of fair market value or the value carried on the credit union's books.

(d) **General Leasing.** A credit union may invest in tangible personal property, including vehicles, manufactured homes, equipment, or furniture, for the purpose of leasing that property. In contrast to financing leases, lease investments made under this authority need not be the functional equivalent of loans.

(e) **Leasing Salvage Powers.** If a credit union believes that there has been an unanticipated change in conditions that threatens its financial position by significantly increasing its exposure to loss, it may:

(1) As the owner and lessor, take reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease;

(2) As the assignee of a lessor's interest in a lease, become the owner and lessor of the leased property pursuant to its contractual right, or take any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease; or

(3) Include any provision in a lease, or make any additional agreements, to protect its financial position or investment in the circumstances set forth in paragraphs (1) and (2) of this subsection.

(f) **Written Policies.** A credit union engaged in lease underwriting must adopt written policies and develop procedures that reflect lease practices that control risk and comply with applicable laws. Any leasing activity must be consistent with the lending policies and underwriting requirements in §91.701 of this title (relating to Lending Powers). Any credit union engaged in making or buying leases also must adopt written policies and procedures that address the additional risks associated with leasing.

(g) **Insurance Requirements.** A credit union must maintain a contingent liability insurance policy with an endorsement for leasing or be named as the co-insured if the credit union does not own the leased property. Contingent liability insurance protects the credit union if it is sued as the owner of the leased property. A credit union must use an insurance company with a nationally recognized industry rating of at least a B+. Credit union members must still carry the normal liability and property insurance on the leased property and the credit union must be named as an additional insured on the liability insurance policy and as the loss payee on the property insurance policy.

(h) **Holding Period.** At the expiration of the lease (including any renewals or extensions with the same lessee), or in the event of a default on a lease agreement prior to the expiration of the lease term, a credit union shall either liquidate the off-lease property or re-lease it under a conforming lease as soon as practicable. The credit union must value off-lease property at the lower of current fair market value or book value promptly after the property becomes off-lease property.

*Source: The provisions of this §91.714 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; amended to be effective November 12, 2006, 31 TexReg 9021; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.715. Exceptions to the General Lending Policies.**

(a) Credit unions may provide for the consideration of loan requests from creditworthy members whose credit needs do not fit within the credit union's general lending policies. A credit union may provide for prudently underwritten exceptions to its lending policies. However, the Board is responsible for establishing written standards for the review and approval of exception loans.

(b) Each credit union establishing exceptions to its general lending policies shall establish an appropriate internal process for the review and approval of loans that do not conform to its own internal policy standards. The approval of any such loan shall also be supported by a written justification that clearly sets forth all of the relevant credit factors that support the underwriting decision. The justification and approval documents for such loans will be maintained as a part of the permanent loan file. Each credit union shall monitor compliance with its lending policies and individually report exception loans of a significant size to its board of directors.

(c) Exception loans shall be identified in the credit union's records and their aggregate amount reported at least annually to the board of directors. The aggregate amount of all such loans shall not exceed 10 percent of the credit union's net worth.

*Source: The provisions of this §91.715 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6269; amended to be effective November 12, 2006, 31 TexReg 9021; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.716. Prohibited Fees.**

A credit union shall not make any loan or extend any credit if, either directly or indirectly, any commission, fee, or other compensation from any person or entity other than the credit union is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or extension of credit.

*Source: The provisions of this §91.716 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003, 28 TexReg 2960; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.717. More Stringent Restrictions.**

The Commissioner may impose more stringent restrictions on a credit union's loans if the Commissioner determines that such restrictions are necessary to protect the safety and soundness of the credit union.

*Source: The provisions of this §91.717 adopted to be effective August 9, 1999, 24 TexReg 6023; readopted to be effective March 25, 2003; readopted to be effective June 12, 2006, 31 TexReg 5152; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.718. Charging Off or Setting Up Reserves.**

(a) The commissioner, after a determination of value in accordance with generally accepted accounting principles, may order that assets in the aggregate, to the extent that such assets have depreciated in value, or to the extent the value of such assets, including loans, are overstated in value for any reason, be charged off, or that a special reserve or reserves equal to such depreciation or overstated value be established.

(b) A credit union's financial statements shall provide for full and fair disclosure of all assets, liabilities, and members' equity, including such valuation allowance accounts as may be necessary to present fairly the financial position; and all income and expenses necessary to present fairly the results of operations for the period concerned.

(c) The Board of directors is responsible for ensuring that the credit union has controls in place to consistently determine the allowance for loan and lease losses (ALLL) in accordance with its written policies, generally accepted accounting principles, and relevant supervisory guidance. Policies shall be appropriately tailored to the size and complexity of the credit union and its loan and lease portfolio. As a minimum, a credit union shall develop, maintain, and document the methodology used to determine the amounts of an appropriate ALLL and provisions for loan and lease losses. Adjustments to the ALLL shall be made prior to the end of each calendar quarter in order to accurately reflect the loss exposure on the quarterly call reports.

*Source: The provisions of this §91.718 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective August 10, 2003, 28 TexReg 6269; amended to be effective November 12, 2006, 31 TexReg 9021; reviewed and readopted to be effective June 21, 2010, 35 TexReg 5917; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§91.719. Loans to Officials and Senior Management Employees.**

(a) **Prohibition on Preferential Rates, Terms, and Conditions.** The rates, terms, conditions, and availability of any loan or other extension of credit made to, or endorsed or guaranteed by, a director, senior management employee, member of the credit committee, or an immediate family member of any such individual shall not be more favorable than the rates, terms, conditions, and availability of comparable loans or credit to other credit union members.

(b) **Approval of Governing Board.** Before making a loan, extending credit, or becoming contractually liable to make a loan or extend credit to a director, senior management employee, member of the credit committee, or an immediate family member of such individual, the board of directors must approve the transaction if the loan or the extension of credit or aggregate of outstanding loans and extensions of credit to any one person, the person's business interests, and the members of the person's immediate family is greater than 15% of the credit union's net worth. A loan fully secured by shares in the credit union or deposits in other financial institutions shall not be subject to, or included in, the aggregate amounts included in this section.

(c) **Definition.** For purposes of this section, senior management employees shall include the chief executive officer, any assistant chief executive officers (e.g. vice presidents and above), and the chief financial officer; and immediate family members shall include a person's spouse or any other person living in the same household.

(d) **Aggregate Limit on Insider Loans.** The aggregate of all outstanding loans or extensions of credit made to, or endorsed or guaranteed by, all directors, credit committee members, senior management employees, and immediate family members of all such individuals, shall not exceed 20% of the credit union's total assets. The requirements described in this subsection shall apply unless waived in writing by the commissioner for good cause shown.

(e) **Reports to Governing Board.** At least annually, the president shall make a report to the board of directors on the outstanding indebtedness of all directors, credit committee members, senior management employees, and immediate family members of such individuals. The Board's review shall be included as part of the minutes of the meeting at which the report was presented. The report required by this section shall include the following information:

- (1) The amount of each indebtedness; and
- (2) A description of the terms and conditions (including the interest rate, the original amount and date, maturity date, payment terms, security, if any, and any other unusual term or condition) of each extension of credit.

(f) **Governing Board Option.** At the discretion of the Board, the reporting requirement of subsection (e) of this section may be waived for any individual if the aggregate amount of all

outstanding loans and extensions of credit to that person, the person's business interests, and the members of the person's immediate family do not exceed the greater of \$25,000 or one-quarter of one percent (.25%) of the credit union's net worth.

*Source: The provisions of this §91.719 adopted to be effective August 9, 1999, 24 TexReg 6023; amended to be effective on August 10, 2003, 28 TexReg 6269; amended to be effective March 14, 2004, 29 TexReg 2637; amended to be effective November 12, 2006, 31 TexReg 9022; reviewed and amended to be effective November 7, 2010, 35 TexReg 9721; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and readopted to be effective March 14, 2022, 47 TexReg 1628.*

### **§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.

*Source: The provisions of this §91.720 adopted to be effective July 11, 2010, 35 TexReg 5807; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203; reviewed and readopted to be effective July 16, 2018, 43 TexReg 4995; reviewed and amended to be effective July 3, 2022, 47 TexReg 3663.*

**Title 7**

**Part VI. Credit Union Department**

**Chapter 95**

**SHARE AND DEPOSITOR INSURANCE  
PROTECTION**

**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.

*Source: The provisions of this §95.100 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

**§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.

*Source: The provisions of this §95.101 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.102 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and amended to be effective March 10, 2011, 36 TexReg 1657; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.103 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

#### **§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.

*Source: The provisions of this §95.104 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

#### **§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).

*Source: The provisions of this §95.105 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.106 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.107 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.108 adopted to be effective March 7, 2007, 32 TexReg 1064, reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.109 adopted to be effective March 7, 2007, 32 TexReg 1064; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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) 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).

*Source: The provisions of this §95.110 adopted to be effective July 8, 2007, 32 TexReg 3982; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

## **Subchapter B. Liquidating Agents**

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

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

(b) If the commissioner finds 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.

*Source: The provisions of this §95.200 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1065; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and amended to be effective March 1, 2020, 45 TexReg 1218; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

**§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.

*Source: The provisions of this §95.205 adopted to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

## 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.

*Source: The provisions of this §95.300 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.301 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.302 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.303 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; readopted to be effective November 12, 2006, 31 TexReg 9044; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.304 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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).

*Source: The provisions of this §95.305 adopted to be effective November 11, 1999, 24 TexReg 9830; readopted to be effective August 10, 2003, 28 TexReg 6030; amended to be effective March 7, 2007, 32 TexReg 1066; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

### **§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.

*Source: The provisions of this §95.310 adopted to be effective March 7, 2007, 32 TexReg 1067; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 20, 2014, 39 TexReg 8604; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

## 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 notice 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.

*Source: The provisions of this §95.400 adopted to be effective March 7, 2007, 32 TexReg 1067; reviewed and readopted to be effective October 18, 2010, 35 TexReg 9748; reviewed and readopted to be effective October 16, 2018, 43 TexReg 7224; reviewed and readopted to be effective June 13, 2022, 47 TexReg 3695.*

5. Commissioner's report including:
  - a. Department's FY 2026 budget and financial performance
  - b. Department operational status and accomplishments
  - c. Employee recognition and team highlights
  - d. Upcoming priorities and goals

Background

Commissioner Etheridge will present on the Department's budget and financial performance as reflected in the following report, as well as other Department news and plans.

Staff recommendation

No action is anticipated.

**Credit Union Department  
BY 2026 Budget Analysis  
For the Period Ended 02/28/26 Final**

	BY 2026 Budget	BY 2026 YTD Budgeted	BY 2026 YTD Actual	Budget Variance	Percent of YTD Budget
<b>REVENUES:</b>					
Operating Income					
Operating Fees	\$6,208,420	\$3,104,210	\$2,869,642	(\$234,568)	92%
Out-of-State Branch Fees	\$0	\$0	\$20,000	\$20,000	100%
Examination Fees	\$0	\$0	\$20,250	\$20,250	
Application Fees	\$0	\$0	\$0	\$0	
Penalties	\$0	\$0	\$1,956	\$1,956	
Open Records Revenue	\$0	\$0	\$212	\$212	
Other	(\$100,000)	(\$100,000)	(\$100,000)	\$0	
<b>Operating Income Subtotal</b>	<b>\$6,108,420</b>	<b>\$3,004,210</b>	<b>\$2,812,060</b>	<b>(\$192,150)</b>	<b>94%</b>
Interest Income (Operating Acct)	\$0	\$0	\$57,877	\$57,877	
Interest Income (Contingency Acct)	\$0	\$0	\$28,695	\$28,695	
<b>TOTAL REVENUES - FUNDS AVAILABLE TO COVER EXPENDITURES</b>	<b>\$6,108,420</b>	<b>\$3,004,210</b>	<b>\$2,898,631</b>	<b>(\$105,579)</b>	<b>96%</b>
<b>EXPENDITURES:</b>					
<b>Personnel Expenses:</b>					
Salaries and Wages	\$3,788,922	\$1,879,461	\$1,786,140	\$93,321	95%
Employee Benefits	\$1,138,543	\$569,271	\$544,587	\$24,684	96%
<b>Total Personnel Expenses</b>	<b>\$4,927,464</b>	<b>\$2,448,732</b>	<b>\$2,330,727</b>	<b>\$118,005</b>	<b>95%</b>
Travel Expenses:					
In State					
Examinations			\$0		
Training/Conferences			\$31,263		
Meetings			\$1,240		
Public Forums			\$0		
Other			\$13,967		
Total In-State	\$437,028	\$218,514	\$202,950	\$15,564	93%
Out-of-State	\$12,500	\$6,250	\$4,956	\$1,294	79%
Commission	\$12,000	\$6,000	\$4,457	\$1,543	74%
<b>Total Travel Expenses</b>	<b>\$461,528</b>	<b>\$230,764</b>	<b>\$212,364</b>	<b>\$18,400</b>	<b>92%</b>
<b>Other Operating Expenses:</b>					
Communication/Utilities	\$56,339	\$28,170	\$25,208	\$2,962	89%
Professional Services/Fees	\$229,500	\$114,750	\$94,485	\$20,265	82%
Supplies/Materials	\$109,000	\$54,500	\$12,830	\$41,670	24%
Printing and Reproduction	\$1,000	\$500	\$0	\$500	0%
Repairs/Maintenance	\$54,240	\$27,120	\$4,948	\$22,172	18%
Rentals and Leases	\$4,500	\$2,250	\$1,952	\$298	87%
Other Operating	\$264,850	\$102,925	\$35,042	\$67,883	34%
<b>Total Other Operating Expenses</b>	<b>\$719,429</b>	<b>\$330,215</b>	<b>\$174,465</b>	<b>\$155,750</b>	<b>53%</b>
<b>TOTAL EXPENDITURES</b>	<b>\$6,108,421</b>	<b>\$3,009,711</b>	<b>\$2,717,556</b>	<b>\$292,154</b>	<b>90%</b>
<b>REMAINING FUNDS TO COVER EXPENDITURES (Actuals)</b>			<b>\$181,074</b>		

## 6. General budget assumptions and parameters to be used in guiding the development of the Department's FY 2027 budget

### Background

Finance Code Section 16.003 gives the Commission the exclusive authority to approve the Department's budget every year. As the fiscal year is September 1-August 31, the budget must be adopted at the July meeting. Staff is therefore seeking approval of guidelines for developing the FY 2027 budget to present in July.

### Staff recommendation

Staff recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2027 budget.

### Recommended motion

I move that the Commission adopt proposed budget assumptions and parameters for FY 2027 as presented by staff.

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## BUDGET ASSUMPTIONS FOR BUDGET YEAR 2027

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The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2027 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 2026 ending reserve balance funds exceeding the aggregate contingency reserves limit.
2. **Contingency Fund Reserve** – The budget will provide for the funding of the Department's Contingency Fund Reserve account, in accordance with the Commission's Reserve Policy.
3. **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) 2026 for which the requested services performed until after the start of FY 2027 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2027 and the BY 2027 budget will be increased by an amount exactly equal to the obligated amount.
4. **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.
5. **Strategic Plan Initiatives** – Consistent with the FY 2027-2031 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2027.
6. **Salary and Benefits** – The expenditures for FY 2027 will be based on authorized and existing positions as of April 30, 2026 and include any scheduled salary increases/promotions based on the satisfactory 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 midpoint of the salary range for those 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.
7. **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 3.50% 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. Funds for anticipated promotions for FY 2027 may be submitted as a separate strategic initiative in the FY 2027 budget which is proposed to the commission for consideration.
8. **Retiree Insurance Cost** – Retiree Insurance Cost are a result of staff retiring from the Department. Changes in retiree insurance costs are anticipated to be allowable budget adjustments.
  9. **Inflation Factor** –No additional 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 based on the ability of examination staff to complete 30% of their work remotely.
  10. **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.
  11. **Out-of-State Travel** – Out of state travel related to examinations, conferences, training, or other authorized purposes. Includes travel for office staff and the Commissioner to NASCUS and other relevant regulatory related meetings. The annual budget for this category will be increased from \$12,500 to \$20,000.
  12. **Commission Travel** – The number of preplanned commission meetings is currently three per year. The budgeted annual travel costs for these meetings are estimated at \$12,000.
  13. **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, etc.
  14. **Electronic Document Management System (EDMS)** – The budget shall provide for the costs associated with the ongoing development and maintenance of our EDMS (e.g., SharePoint).
  15. **Information Technology** – The budget shall provide enough funding for computer network upgrades and computer equipment replacement in accordance with the Department’s technology needs.
  16. **Improvements** – The budget shall provide enough funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan. Strategic initiatives will be detailed in the final budget for the most significant anticipated items.

17. **NASCUS Dues** – The budget shall provide enough funding to accommodate the projected increase in the professional association’s dues.
18. **Accreditation Fees** – The budget shall provide enough funding to accommodate the fees associated with the Department’s continued NASCUS accreditation.
19. **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.
20. **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 12 laptops will be replaced each fiscal year at an average cost of \$2,800 each. The budgeted amount includes costs associated with the purchase and set-up of each laptop and procuring all software licensing, security, and support for the new machines as well as maintaining two (2) laptops in inventory as backup devices in the event a laptop issue arises. 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.).
21. **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., legal subscriptions, etc.) to perform the duties of the position.

## 7. Approval of the Department's Strategic Plan for FY 2027-2031

### Background

Section 2056.002 of the Government Code requires state agencies to develop a strategic plan every even-numbered year for the following five fiscal years. The proposed FY 2027-2031 Strategic Plan summarizes staff's analysis of the internal and external environment impacting credit unions and the Department and provides goals and objectives for the next five years. The Strategic Plan is centered on the agency's mission to "supervise, regulate, and examine Texas credit unions to safeguard the public interest, protect the financial interests of credit union members, and promote public confidence in the credit union industry."

As of preparation of these materials, the Legislative Budget Board (LBB) and the Governor's Office have not yet released their instructions for preparation of the Strategic Plan, so this draft may need to change if the instructions vary from previous years.

### Staff recommendation

Staff recommends that the Commission approve the draft of the FY 2027-2031 Strategic Plan as presented and authorize its submission in the form and at the time prescribed, with changes to be approved by the Chairman if necessary.

### Recommended motion

I move that the Commission approve the Strategic Plan for the Department for Fiscal Years 2027-2031 and authorize its submission as required by the Governor and the LBB, with any necessary changes to be approved by the Chairman.

# AGENCY STRATEGIC PLAN

## FISCAL YEARS 2027 TO 2031

BY THE

### CREDIT UNION DEPARTMENT STATE OF TEXAS

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#### CREDIT UNION COMMISSION OF TEXAS

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**Commission Member**

**Dates of Term**

**Hometown**

James L. "Jim" Minge  
Becky L. Ames  
David Bleazard  
Karyn C. Brownlee  
Cody R. Huggins  
David F. Shurtz  
Kay Rankin-Swan  
Sara Jones Oates

May 21, 2017 to February 15, 2029  
Dec. 18, 2023 to February 15, 2029  
April 5, 2022 to February 15, 2027  
August 8, 2019 to February 15, 2029  
Dec. 18, 2023 to February 15, 2027  
August 8, 2019 to February 15, 2031  
August 8, 2019 to February 15, 2031  
May 8, 2025 to February 15, 2031

Arlington, Texas  
Beaumont, Texas  
Katy, Texas  
Coppell, Texas  
Georgetown, Texas  
Hudson Oaks, Texas  
Monahans, Texas  
Austin, Texas

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**DATE OF SUBMISSION: May 22, 2026**

**SIGNED:** \_\_\_\_\_

**Robert W. Etheridge, Commissioner**

**APPROVED:** \_\_\_\_\_

**Jim Minge, Commission Chair**

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## **AGENCY MISSION**

The mission of the Credit Union Department is to safeguard the public interest, protect the financial interests of credit union members, and promote public confidence in the credit union industry in accordance with TEX. FIN. CODE §15.102.

## **AGENCY PHILOSOPHY**

The Credit Union Department will serve the public, credit unions and their members, exercising the highest standards of regulatory oversight, emphasizing professionalism and personal ethics. The Department will guide credit unions toward continuous improvement in financial strength and effectiveness in the provision of financial services to their members. Supervision and examination will be fairly and consistently administered as appropriate to ensure fiscal integrity of the industry. Preservation of public confidence in credit unions and the protection of members' interests will remain a principal focal point of the agency. This will be accomplished through effective regulation and open communication with credit unions and the general public.

## **AGENCY OVERVIEW**

The Credit Union Department (“Department”), under the oversight of the Credit Union Commission (“Commission”), is charged with assuring the safety and soundness of state-chartered credit unions in Texas. The agency also oversees branches of out-of-state credit unions operating in the state.

## AGENCY GOALS AND ACTION PLAN

### AGENCY OPERATIONAL GOAL AND ACTION PLAN

*Goal 1. To ensure a safe and sound credit union industry.*

#### SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL

1. Ensure the Department anticipates, understands, addresses, and communicates risk to credit unions.
2. Ensure the Department cooperates with other regulatory authorities on common interests.
3. Develop and deploy supervisory methods and analytical tools appropriately pacing industry and economic changes in the financial services industry.

#### DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE

1. Accountable to tax and fee payers of Texas.
  - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department's revenue is derived from state-chartered credit unions operating fees and assessments.
  - Being a prudent steward of its financial resources.
  - Providing transparency through its reporting.
  - Establishing the appropriate regulatory framework.
  - Complying with the examination requirements of 7 TEXAS ADMIN. CODE (TAC) Section 97.105.
2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
  - Ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions.
  - Identifying emerging risk areas related to industry and individual credit unions.
  - Working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues.
  - Resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
  - Resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider.
  - Ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions.
  - Identifying emerging risk areas related to industry and individual credit unions.
  - Taking prompt and effective enforcement actions when warranted.
4. Providing excellent customer service.
  - Implementing and developing new coordination and collaboration agreements with the NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.
  - Working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues.
5. Transparent such that agency actions can be understood by any Texan.
  - Complying with the examination requirements of 7 TAC Section 97.105.

- Implementing and developing new coordination and collaboration agreements with the NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.
- Adhering to performance measures.

**DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM**

1. The Department fosters safe and sound credit union practices through regular risk-focused examinations, publication of guidance and policies, ongoing communications with credit union officials, and the review of applications submitted by credit unions to expand activities. When appropriate, the Department has a range of informal and formal enforcement options available to resolve safety and soundness problems identified at these institutions. The Department also devotes resources to administering off-site monitoring programs and to enhance its ability to timely identify emerging safety and soundness issues and trends.
2. Should a situation arise where a non-compliant business is discovered, the Department has statutory authority to take enforcement action against the entity. Disputes are investigated by staff, and every attempt is made to bring about a fair resolution. State leadership and other interested parties are routinely provided information about credit unions, and the associated laws, rules, policies, and practices of the Department.
3. This strategic plan reaffirms the Department’s mission to ensure that credit unions operate in a safe and sound manner, provide fair access to credit union services, treat members fairly, and comply with applicable laws and rules. The plan presents a vision in which the Department is a preeminent agency that adds value through proactive and risk-based supervision, is sought after as a source of knowledge and expertise and promotes a vibrant and diverse credit union system that benefits the Texas economy. To succeed in that mission and achieve that vision, the Department commits itself to the core values of integrity, expertise, collaboration, and independence—values that always have been the bedrock of the Department’s culture.
4. The Department works closely with federal and other state regulators to provide credit unions with seamless supervision, minimal disruption and costs, and effective use of resources. The Department continues its collaboration with the National Credit Union Administration (NCUA) started in 2003. The program results in more efficient and less burdensome examinations for credit unions.

**AGENCY OPERATIONAL GOAL AND ACTION PLAN**

*Goal 2. To provide a flexible regulatory framework that enables credit unions to provide a full array of competitive financial services.*

**SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL**

1. Ensure each Commission rule is current, clearly written, and necessary for an effective supervisory process.
2. Support credit union efforts to remain competitive and viable, consistent with safety and soundness implications.

**DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE**

1. Accountable to tax and fee payers of Texas.
  - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department’s revenue is derived from state-chartered credit unions operating fees and assessments.
  - Being a prudent steward of its financial resources.

- Providing transparency through its reporting.
  - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current marketplace conditions.
  - Implementing rulemaking through successful collaboration and consultation with interested parties.
  - Communicating attributes of the state charter within and outside the Department.
  - Implementing and maintaining processes for prompt screening of applications.
2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
    - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions.
    - Developing and modernizing attributes of the credit union charter and the role and status of the industry.
    - Enhancing communication with the NCUA and other state regulators to facilitate better coordination on issues affecting credit unions.
    - Implementing and maintaining processes for prompt screening of applications.
    - Enhancing existing technology solutions that support effective application operations.
  3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
    - Meet or exceed performance measures.
    - Conducting the mandatory rule review in accordance with Commission's approved plan.
    - Implementing and maintaining processes for prompt screening of applications.
    - Establishing policies and procedures that provide clear and comprehensive guidance.
    - Enhancing existing technology solutions that support effective application operations.
  4. Providing excellent customer service.
    - Accessible staff who are a resource for consumers and the regulated industry.
    - Supporting the continued recognition of the attributes of the state credit union charter through appropriate opinions and rules.
    - Investigate and resolve customer complaints in a timely manner.
    - Establishing policies and procedures that provide clear and comprehensive guidance.
    - Enhancing existing technology solutions that support effective application operations.
    - Providing useful information for consumers and the regulated industry on the Department's website.
  5. Transparent such that agency actions can be understood by any Texan.
    - Adhering to performance measures.
    - Implementing rulemaking through successful collaboration and consultation with interested parties.
    - Communicating attributes of the state charter within and outside the Department.
    - Establishing policies and procedures that provide clear and comprehensive guidance.

**DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM**

1. The Department places a high priority on its responsiveness to inquiries, requests, and complaints from citizens, members, credit unions, public officials, and other state and federal governmental entities. Pursuant to statutes, the Department accepts complaints against credit unions and reviews them for potential violations of applicable laws or rules. When the Department receives complaints, credit unions are contacted and given an opportunity to respond to a member's concern or inquiry. Member complaints have increased over the last five years, and the Department expects this trend to

continue. In fiscal year 2019, the Department resolved 376 complaints declining to 344 in 2020 and 323 in 2021, and then rising again to 345 in 2022, 402 in 2023, 614 in 2024 and 687 in 2025. Through its response to these complaints and inquiries, the Department attempts to help members better understand their rights and responsibilities under applicable laws and regulations. The Department monitors the level of satisfaction with its responses to member complaints and inquiries.

2. The Department works closely with federal and other state regulators to provide credit unions with seamless supervision, minimal disruption and costs, and effective use of resources. The Department continues its collaboration with the National Credit Union Administration started in 2003. The joint program results in more efficient and less burdensome examinations for credit unions.
3. The Department cooperates with the Financial Crimes Enforcement Network (“FinCEN”) and numerous other federal agencies to monitor compliance with the BSA/AML and USA Patriot Act and other laws governing credit unions. The rise in popularity of virtual or digital currencies has the attention of federal and state regulators for many reasons including money-laundering concerns. FinCEN has issued guidance which labels certain digital currency entities as money transmitters and requires them to implement AML programs.

**AGENCY OPERATIONAL GOAL AND ACTION PLAN**

*Goal 3. To safeguard the interest of credit union members.*

**SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL**

1. Ensure consumer complaints are processed in a timely fashion and investigated appropriately.
2. Encourage credit union involvement in providing financial services in underserved communities.

**DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE**

1. Accountable to tax and fee payers of Texas.
  - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department’s revenue is derived from state-chartered credit unions operating fees and assessments.
  - Being a prudent steward of its financial resources.
  - Providing transparency through its reporting.
  - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions.
  - Reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action.
  - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
  - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
  - Strengthening role in addressing member privacy, information security, and identity theft.
  - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.

4. Providing excellent customer service.
  - Strengthening role in addressing member privacy, information security, and identity theft.
  - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
5. Transparent such that agency actions can be understood by any Texan.
  - Reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action.

**DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM**

1. Through its response to the complaints and inquiries, the Department attempts to help members better understand their rights and responsibilities under applicable laws and regulations. The Department monitors the level of satisfaction with its responses to member complaints and inquiries.
2. The National Association of State Credit Union Supervisors (“NASCUS”) has established accreditation standards for credit union supervision and regulation. Patterned after university accreditation, the accreditation process requires a comprehensive review of all factors needed to have a fully functional regulatory agency. The Department has been continuously accredited by NASCUS since 1996. Every year, the accreditation committee of NASCUS requires updated information to maintain accredited status; a full-scale re-accreditation occurs on-site every five years, which for the Department occurred in 2021. Accreditation provides the Department with national recognition among its peers and professional respect from the institutions it regulates. The next accreditation review is scheduled to begin in October 2026.

**AGENCY OPERATIONAL GOAL AND ACTION PLAN**

*Goal 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.*

**SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL**

1. Ensure the Department maintains a competent, highly motivated, and diverse workforce in a fair and inclusive work environment.
2. Ensure the Department is an efficient, effective, and ethical organization.
3. Ensure the Department’s resource decisions and operations reflect sound financial, security, and risk management principles.

**DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE**

1. Accountable to tax and fee payers of Texas.
  - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department’s revenue is derived from state-chartered credit unions operating fees and assessments.
  - Being a prudent steward of its financial resources.
  - Providing transparency through its reporting.
  - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current marketplace conditions.
  - Maintaining a comprehensive Equal Employment Workforce Plan.
  - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
  - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
  - Achieving reliable, accurate and timely financial resources management information.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
  - Executing an aggressive recruitment and comprehensive training strategy for new entry-level examiners.
  - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staff to achieve the ideal level of 160 to 180 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
  - Creating a leadership development program to support and enhance management succession.
  - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
  - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives.
  - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
  - Achieving reliable, accurate and timely financial resources management information.
  - Implementing security controls to mitigate risk and to protect confidential information.
  - Improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
  - Executing an aggressive recruitment and comprehensive training strategy for new entry-level examiners.
  - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staff to achieve the ideal level of 160 to 180 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
  - Creating a leadership development program to support and enhance management succession.
  - Maintaining a comprehensive Equal Employment Workforce Plan.
  - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
  - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
  - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives.
  - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
  - Leveraging technology, with a focus on information management initiatives, such as records and knowledge management.
  - Implementing security controls to mitigate risk and to protect confidential information.
  - Improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies.
  - Achieving reliable, accurate and timely financial resources management information.
4. Providing excellent customer service.
  - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staffing to achieve the ideal level of 160 to 180 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.

- Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
  - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
  - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department’s mission, goals, and objectives.
  - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
  - Achieving reliable, accurate and timely financial resources management information.
5. Transparent such that agency actions can be understood by any Texan.
- Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staff to achieve the ideal level of 160 to 180 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
  - Maintaining a comprehensive Equal Employment Workforce Plan.
  - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
  - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
  - Achieving reliable, accurate and timely financial resources management information.

**DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM**

- The Commission sets the spending limits of the Department. As an SDSI agency, the Department continues to be self-funding, and no General Revenue Funds are used to support its operation.
- Financial crimes consist of several broad categories such as fraud, money laundering, and corruption with many subcategories such as terrorist financing, identity theft, kickbacks, and bribery. The United States government has powerful tools to pursue financial criminals and the framework to force credit unions into compliance with a wide range of laws, such as the Bank Secrecy Act/Anti-Money Laundering and USA Patriot Acts. Financial crimes are a threat for credit unions and the Department alike. Having a knowledgeable and trained staff that understand the risks and how they can be managed is essential.
- No single factor is more critical to the Department’s ability to accomplish its mission and to its success than its staff. Acquiring, developing, and retaining a competent workforce continues to be one of the Department’s top priorities and is one of its four strategic goals. At the same time, and similar to the rest of state government, significant internal and external factors affect the Department’s current and future workforce, challenging the Department’s ability to ensure that its staff is well trained, skilled, and capable of meeting the needs of the rapidly changing and growing complex industry.
- The Department operates and maintains its only office in Austin. Agency examiners work from their residences, located primarily in the Dallas/Fort Worth, Houston and Austin metropolitan areas. Because credit unions are located throughout the state, examiners may be required to travel extensively in examining credit unions with overnight travel of approximately 20 to 40 percent. Given the amount of potential travel, stationing field staff in these three metropolitan areas helps to minimize travel-related costs. The Department is solely responsible for the upkeep and maintenance of the Credit Union Department Building. Each year during the budgeting process, the Commission reviews and approves any necessary maintenance, major repairs, and long-term improvements.

**REDUNDANCIES AND IMPEDIMENTS**

The agency does not have any services, state statutes, and state rules or regulations applicable to the agency that may result in barriers to the economic prosperity of Texans or make the agency less effective and efficient in achieving its core mission and merit additional executive and legislative review nor does the agency have any state services, state laws, and state regulations administered by the agency that are redundant, distract from the core mission of the agency, and/or produce workload costs for agency staff or regulated entities that may exceed the initial time, cost, or effort assumptions that existed when the law or regulation was implemented.

The statutes pertaining to the operation of the Department and the regulation and supervision of Texas state-chartered credit unions are considered comprehensive and current and correctly delineate the Department’s responsibilities and authorities. TEX. FIN. CODE §§15.103 and 15.405, require the Department to periodically study the credit union statutes of the state and report its legislative recommendations to the Legislature for consideration. Notwithstanding these requirements, the Department continually reviews State of Texas statutes pertaining to credit union operations. The Commissioner, with the approval of the Commission, reports the recommendations of the Department as necessary to the Legislature for its consideration (TEX. FIN. CODE §15.405).

**REDUNDANCIES AND IMPEDIMENTS (REPEAT SECTION AS NECESSARY FOR EACH IDENTIFIED REDUNDANCY AND IMPEDIMENT)**

<b>SERVICE, STATUTE, RULE, OR REGULATION (PROVIDE SPECIFIC CITATION IF APPLICABLE)</b>	<b>NONE</b>
<b>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS</b>	<b>N/A</b>
<b>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</b>	<b>N/A</b>
<b>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE</b>	<b>N/A</b>

**NATURAL DISASTER-RELATED REDUNDANCIES AND IMPEDIMENTS (IF APPLICABLE)**

<b>SERVICE, STATUTE, RULE, OR REGULATION (PROVIDE SPECIFIC CITATION IF PPLICABLE)</b>	<b>NONE</b>
<b>DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN INEFFICIENT OR INEFFECTIVE AGENCY ERATIONS</b>	<b>N/A</b>
<b>PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION</b>	<b>N/A</b>
<b>DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED</b>	<b>N/A</b>

**AGENCY BUDGET STRUCTURE ELEMENTS  
(GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS)  
FOR THE 2027–28 BIENNIUM**

**AGENCY NAME:** Credit Union Department

<b>ELEMENT</b> Identify the current Goal, Strategy, Measure or Measure Definition.	<b>REQUESTED CHANGE</b>	<b>JUSTIFI- CATION FOR REQUESTED CHANGE</b>	<b>LBB OR OOG APPR'D</b>	<b>LBB / OOG COM- MENT</b>	<b>STATUS</b>
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Percentage of Credit Unions Receiving Regular Examination Annually	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Percentage of Complete Applications Approved or Denied Within 60 Days	None	None	N/A		N/A
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Percentage of Credit Unions with Composite CAMELS Ratings of 1 or 2	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Percentage of Assets Held in Credit Unions with Composite CAMELS Ratings of 1 or 2	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Percentage of Credit Unions that are Well-Capitalized as defined by federal statute	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Output Measure: Percentage of Reports Mailed to the Credit Union Within 25 Days	None	None	NA		NA

**AGENCY BUDGET STRUCTURE ELEMENTS  
(GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS)  
FOR THE 2027–28 BIENNIUM**

**AGENCY NAME:** Credit Union Department

Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Efficiency Measure: Department E-Time Ratio	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Examine Credit Union Operations</i> Outcome Measure: Assets Examined per Examiner Day	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry <i>Strategy: Ensure Efficiency of Examination Method</i> Efficiency Measure: Average time to complete analysis of quarterly financial data	None	None	NA		NA
Goal 2: A Flexible Regulatory Framework <i>Strategy: Provide Oversight of Department Operations</i> Outcome Measure: Percentage of Rule Changes Provided to Credit Unions Within 60 Days After Adoption	None	None	NA		NA
Goal 2: A Flexible Regulatory Framework <i>Strategy: Communicate with the Industry</i> Explanatory Measure: Percentage of interpretations/opinions issued within 30 days	None	None	NA		NA
Goal 3: Protect Credit Union Member Interests <i>Strategy: Investigate and Process Consumer Complaints</i> Efficiency Measure: Percentage of Complaints Investigated and Responded to Within 50 Days of Receipt	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Percentage of Exam Related Travel Costs Reduced by Remote Work	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Annual Examiner Turnover Ratio	None	None	NA		NA

**AGENCY BUDGET STRUCTURE ELEMENTS  
(GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS)  
FOR THE 2027–28 BIENNIUM**

**AGENCY NAME:**

Credit Union Department

Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Efficiency Measure: Average Regulated Assets per Examiner (billion)	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Percentage of Purchases Made from HUBS Vendors	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Percentage of Credit Unions Indicating Quality Service Annually	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Staffing Levels	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Number of Job Fairs Attended	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Turnover Ratio (excluding retirements)	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff <i>Strategy: Maintaining High Quality Staff</i> Explanatory Measure: Accreditation by NASCUS Maintained in Good Standing	None	None	NA		NA

Goal 4: Develop and Maintain Professional Staff  
*Strategy: Maintaining High Quality Staff*  
Explanatory Measure: Total Department Costs Relative to Every \$100,000  
in Assets Regulated

None

None

**NA**

**NA**

**Outcome Measure: Percentage of Credit Unions Receiving Regular Examination Annually**

**Definition**

The number of credit unions examined within an examination cycle of no more than 18 months during the fiscal year, expressed as a ratio of the total number of state-chartered credit unions for same period.

**Purpose/Importance**

This measure monitors the Department's performance in meeting the Commission's mandate and 7 TEX. ADMIN. CODE §97.105.

**Source/Collection of Data**

Supporting information regarding each examination is tracked in the Department's internal database.

**Method of Calculation**

Divide the number of credit unions examined during the reporting period by the total number of credit unions for the same period.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

75.0% annual

**Outcome Measure: Percentage of Complete Applications Approved/Denied within 60 days**

**Definition**

The number of complete applications approved or denied not later than the 60<sup>th</sup> day after the date notice of the applications are published, or after the date the applications are received if notice is not required to be published, expressed as a percentage of all applications approved or denied for the same period. Applications include applications for mergers, charter conversions (federal to state, state to federal, state credit union to mutual savings associations, and mutual savings associations to state credit unions), and insurance conversions, and for amendments to bylaws and articles of incorporation. If an application is protested, it is not considered complete until responses from all parties have been received.

**Purpose/Importance**

Finance Code §122.005 requires the Commissioner to approve or disapprove applications not later than the 60<sup>th</sup> day after the date notice of the application is published, or after the date the application is received if the notice is not required to be published.

**Source/Collection of Data**

Supporting information regarding each application is tracked in the Department's internal database.

**Method of Calculation**

Divide the number of complete applications approved or denied not later than the 60<sup>th</sup> day after the date notice of the application is published, or after the date the application is received if the notice is not required to be published, whichever is later, by the total number of applications approved or denied

during the same reporting period.

**Data Limitations**

Protests

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

100%

**Outcome Measure: Percentage of Credit Unions with Composite CAMELS Ratings of 1 or 2**

**Definition**

The number of credit unions with composite CAMELS rating of 1 or 2 during the applicable period based upon a rating system, expressed as a percentage of the total number of credit unions regulated for the same period.

**Purpose/Importance**

Measures the financial health of the Texas state-chartered credit unions. This measure ties directly to a statewide regulatory benchmark.

**Source/Collection of Data**

Supporting information regarding each examination is tracked in the Department's internal database.

**Method of Calculation**

Divide the number of credit unions assigned a composite CAMELS rating of 1 or 2 by the total number of credit unions for the same reporting period.

**Data Limitations**

Limited control over events that could lead a credit union to receiving a lower CAMELS rating.

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

85%

**Outcome Measure: Percentage of Assets Held in Credit Unions with Composite CAMELS Ratings of 1 or 2**

**Definition**

The consolidated total assets of credit unions with composite CAMELS rating of 1 or 2 as reported in the designated quarterly call report based upon a rating system, expressed as a percentage of the consolidated total assets of all credit unions regulated for the same period.

**Purpose/Importance**

This informational measure indicates the financial health of the Texas chartered credit union industry. Ties directly to a statewide regulatory benchmark.

**Source/Collection of Data**

Quarterly financial and statistical Call Report data filed with the Department by each credit union.

**Method of Calculation**

Divide the consolidated total assets of credit unions assigned a composite CAMELS rating of 1 or 2 by the consolidated total assets of all credit unions for the same reporting period.

**Data Limitations**

Limited control over events that could lead a credit union to receiving a lower CAMELS rating.

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

95%

**Outcome Measure: Percentage of Credit Unions That are Well-Capitalized as Defined by Federal Statute**

**Definition**

A credit union is well capitalized if it has a net worth ratio of seven percent (7%) or greater and meets any applicable risk-based net worth requirements.

**Purpose/Importance**

Measures the financial health of the Texas state-chartered credit union industry based upon their level of net worth. Ties directly to a statewide regulatory benchmark.

**Source/Collection of Data**

Quarterly 5300 Call Report data filed with the Department by each credit union.

**Method of Calculation**

Divide the number of credit unions with a net worth ratio of seven (7%) percent or more by the total number of credit unions for the reporting period.

**Data Limitations**

Limited control over events that could lead to a credit union's net worth to decline.

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

95%

**Output Measure: Percentage of Reports to Credit Unions Within 25 Days**

**Definition**

The number of regular examination reports mailed to credit union management within 25 days of the last day on-site at the credit union, expressed as a percentage of the total number of examination reports mailed during the reporting period.

**Purpose/Importance**

The measure is an indication of the agency’s efficiency in reporting examination findings back to the credit union’s board of directors and key management.

**Source/Collection of Data**

Supporting information regarding each examination is tracked in the Department’s internal database.

**Method of Calculation**

Divide the number of reports of examination processed and mailed to credit unions within 25 days after the last day the examiners are on-site by the total number of reports of examination processed for the same period.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

98%

**Efficiency Measure: Department E-Time Ratio**

**Definition**

The E-Time Ratio is the percentage of all Field Examiners (excluding the Field Supervisors) paid time that is actively spent performing examinations.

**Purpose/Importance**

This measure assesses efficient usage of Field Examiners’ time for the entire Department. The measure also allows the Department to assess efficiency of Field Examiners on an individual basis and by assigned zone (i.e., A, B, C, etc.).

**Source/Collection of Data**

Tracked from a monthly report generated in the CAPPs time management system. That report identifies the aggregate exam hours for each examiner for the month. This data is input into a monthly e-time spreadsheet, which automatically computes the E-Time Ratio for each Field Examiner, each zone and for all Department Field Examiners. The E-Time Ratio for all field examiners is the performance measurement in the above definition.

**Method of Calculation**

The E-Time Ratio is computed by taking the Aggregate Exam Hours for a specific period (i.e., monthly, annually, etc.), divided by the Total Hours Available for Examinations for all Field Examiners (excluding Field Supervisors) for the same period.

The Aggregate Exam Hours include all time charged for all regular examination work both on-site and off-site, remedial examination work both on-site and off-site, and all remote examination work. It also includes on-the-job training hours for new Examiners (Assistant Examiners) who have not yet completed six full months (excludes partial months) of examination training. The Total Hours Available for Examinations are the Days Available for Examinations multiplied by the total number of Field

Examiners, multiplied by the work hours (8) in a day. The Days Available for Examinations equal the total number of weekdays (M-F) for the period (i.e., monthly, annually, etc.) measured, less the number of state and federal holidays which occur on a weekday during the same period.

**Data Limitations**

None

**Calculation Type**

Cumulative

**New Measure**

No

**Target Attainment:**

70%\*

*\*Remote work is anticipated to remain between 30 to 50 percent.*

<b>Outcome Measure: Assets Examined per Examiner Day</b>
--

**Definition**

Total assets examined by the Department over the reporting period, divided by the total regular examination days related to those specific examinations.

**Purpose/Importance**

To assist in reviewing the efficiency of the Department’s examinations, and to benchmark against other regulators.

**Source/Collection of Data**

Financial information is obtained during each regular examination and is uploaded into the Department’s database.

**Method of Calculation**

To calculate the assets examined per examiner day, run the Regular Exams Received Report for the appropriate fiscal quarter. Divide the sum of the total assets examined by the total examination days, under the header “curr” (Total exam days for the most recent examination).

**Data Limitations**

Increase in asset size of credit unions due to mergers, consolidations, etc.

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

\$18.4 Million\*

*\*Target decreased from \$19.5 Million to \$18.4 Million, based on 95% of actual level realized for FY25.*

**Efficiency Measure: Average Time to Complete Analysis of Quarterly Financial Data**

**Definition**

The number of calendar days required for Field Staff to analyze and report to the office their initial risk ratings for credit unions under the Department’s jurisdiction based upon the quarterly financial results from the 5300 Call Reports that credit unions submit.

**Purpose/Importance**

To measure off-site monitoring efficiency. The call reports are a significant tool for the Department in identifying and addressing financial operating changes in a credit union between quarterly reports so that prompt, effective supervisory action can be taken when needed.

**Source/Collection of Data**

Call report data serves as the basis for the report. Call reports are required to be sent to the Department. Department staff validates each call report received.

**Method of Calculation**

Credit unions are required by the NCUA to submit their quarterly 5300 Call Reports on or before a certain date, each calendar quarter. That date will be the starting point for purposes of this measure. The date that the Field Supervisors forward their completed reviews of the Financial Performance Report (FPR) dashboard worksheets for their respective zones to the office marks the end date. The elapsed days between the two dates is the measure of performance.

**Data Limitations**

Turnover of key staff could slow down the review process of Quarterly FPRs.

**Calculation Type**

Noncumulative

**New Measure**

No

**Target Attainment:**

Within 40 days

**Outcome Measure: Percentage of Rule Changes Provided to Credit Unions Within 60 Days After Adoption**

**Definition**

The number of new, amended, and readopted rules that are mailed out within 60 days of their final adoption by the Commission.

**Purpose/Importance**

The measure indicates how quickly credit unions are informed of changes affecting their operations or Department operations.

**Source/Collection of Data**

The date a new, amended, or readopted rule is adopted, as well as the date the letter of transmittal for the Texas Laws and Regulations for Credit Unions are sent out to credit unions, is entered into a

database, and tracked accordingly.

**Method of Calculation**

Divide the number of rule changes provided to credit unions within 60 days of the effective date of their adoption by the number of rule changes adopted during the same reporting period.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

100%

**Explanatory Measure: Percentage of Interpretations and Opinions Issued Within 30 Days of Receipt**

**Definition**

The number of written requests for interpretations and opinions responded to within 30 days of receipts, expressed as a ratio of all requests for interpretations and opinions responded to within the applicable time. A request for an interpretation or opinion must be in writing, must concern an existing statute or Commission rule, and must be responded to by the Commissioner or his designee.

**Purpose/Importance**

This measure provides an indication of the responsiveness of the Department in handling requests for interpretations and opinions responded to for the applicable period.

**Source/Collection of Data**

Department staff maintains a correspondence database that flags requests for interpretations or opinions. The database tracks the date correspondence is received, the name of the party from whom it is received, subject of the correspondence, whether it is a request for an interpretation or opinion, the date the Department's response was sent, and the number of days elapsed between the receipt and response dates. The database is updated daily.

**Method of Calculation**

Divide the number of interpretations and opinions issued within 30 days of receipt by the number of requests for interpretations and opinions responded to for the applicable period.

**Data Limitations**

If the nature of the request is such that the matter must be referred to the Attorney General's Office, the Department would be unable to respond within 30 days.

**Calculation Type**

Cumulative

**New Measure**

No

**Target Attainment:**

100%

**Efficiency Measure: Percentage of Complaints Investigated and Responded to Within 50\* Days of Receipt**

**Definition**

The number of written complaints from credit union members or members of the public, relating to actions or inactions of a state-chartered credit union, which are investigated and responded to in writing within 50 days of receipt of the complaint, expressed as a percentage of all complaints responded to for the applicable time.

**Purpose/Importance**

This measure provides an indication of the responsiveness of the Department in handling consumer complaints.

**Source/Collection of Data**

When the Department receives a written complaint, the following information is entered into a database: the date the complaint is received, name of the complainant, the name of the credit union, and the nature of the complaint. When resolved, the date closed and the cost of handling the complaint is entered into the database. The elapse time is then generated by the program.

**Method of Calculation**

Divide the number of written consumer complaints received and responded to within 50 days of their receipt by the number of consumer complaints responded to during the applicable period. A complaint is considered received once the complainant has provided sufficient information regarding the nature of the complaint for the Department to begin an investigation. The investigation includes obtaining a response from the subject credit union. A complaint is considered closed when the Department has sent a response to the complainant.

**Data Limitations**

No control over a credit union's response time

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

85%\*\*

*\*Due to the increasing quantity and level of complexity of member complaints, this performance measure is being increased from 40 to 50 days, subject to the Commission's approval of the FY27 Operating Plan and Budget.*

*\*\*Based on current staffing and the time it takes to review a complaint and the credit union's response, achievement of this performance measure has been impacted. As a result, the performance measure was adjusted from 95 to 85 percent, in conjunction with the commission's approval of the FY26 Operating Plan and Budget.*

**Explanatory Measure: Percentage of Exam Related Travel Costs Reduced by Remote Work**

**Definition**

Travel cost savings for performing examinations remotely divided by total examiners' travel costs.

**Purpose/Importance**

Because turnover results in a less experienced staff, this measure is one indicator of the Department's ability to meet its goals.

**Source/Collection of Data**

The Department’s monthly financial statements will break down examiners’ total travel costs, while the monthly time management reports will break down total examination hours. Total examination hours include all time charged to exam hours onsite and offsite, remedial exam hours onsite and offsite, exam remote e-time, and remedial remote e-time.

**Method of Calculation**

Total examiners’ travel costs are divided by total examination hours (regular and remedial) to arrive at examiner’s average travel cost per examination hour. The average cost is then multiplied by the total hours of examination time performed remotely to compute travel costs savings. Divide the total cost savings amount by the examiners’ total travel costs to arrive at the percentage reduction of examination related travel costs.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

20%

**Explanatory Measure: Annual Examiner Turnover Ratio**
**Definition**

The number of examiner resignations (excluding retirements) as a percentage of the number of filled examiner positions.

**Purpose/Importance**

Because turnover results in a less experienced examination staff, this measure is one indicator of the Department’s ability to meet the examination completion-related goals.

**Source/Collection of Data**

New hires, resignations, and the reasons given for resignations are tracked in a spreadsheet by the Staff Services Officer.

**Method of Calculation**

Divide the number of examiner resignations (excluding retirements) received during a reporting period by the average number of examiner FTEs for the same period.

**Data Limitations**

Very limited control over examination staff turnover. Most Resign because of less competitive salaries and/or travel considerations. Salaries limited by levels in state classification plans and budgetary constraints.

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

<16%

**Efficiency Measure: Average Regulated Assets (in billions) per Examiner**

**Definition**

The total amount of credit union assets regulated per examiner.

**Purpose/Importance**

This measure is an indicator of the workload placed on the agency’s examination staff.

**Source/Collection of Data**

Each credit union files a quarterly financial performance report (FPR), which contains various financial reporting schedules and includes the credit union’s total assets. The Department pulls an aggregate FPR for the reporting period, which includes the total assets for all state-chartered credit unions.

The number of examiners on staff is maintained on the Uniform Statewide Payroll System (USPS) system. Report 21 can be used to verify staff paid each month for the reporting period and to determine the number of examiners.

**Method of Calculation**

Divide the total assets of state-chartered credit unions by the average number of examiners on staff during the reporting period. Average number of examiners is the cumulative number of examiners on staff (excluding Field Supervisors) at the end of each month, divided by the number of months in the reporting period.

**Data Limitations**

No control industry asset growth

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

\$3.5 billion

*\*Based on FYE25 regulated assets of \$60.1 billion, divided by 18 examiners (excluding Supervisors) when fully staffed, times 105%.*

**Explanatory Measure: Percentage of Credit Unions Indicating Quality Service Annually**

**Definition**

The number of credit unions indicating the Department provides quality service, expressed as a percentage of the number of credit unions responding to that question on the annual survey.

**Purpose/Importance**

This measure provides an indication of the state-chartered credit union industry’s perception of the quality of regulation and supervision received from the Department.

**Source/Collection of Data**

The Department sends out a survey each March to all state-chartered credit unions. One of the questions asked on the survey is “Do you believe the Department provides your credit union with quality service?”

**Method of Calculation**

Divide the number of credit unions reporting receipt of quality service from the Department by the number of credit unions responding to that question on the survey.

**Data Limitations**

Responding to the survey is voluntary. The Department cannot control the number of responses received.

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

90%

<b>Explanatory Measure: Staffing Levels</b>
---

**Definition**

Number of actual Full Time Equivalent (FTEs) divided by the number of authorized FTEs.

**Purpose/Importance**

To ensure the Department is adequately staffed to provide the necessary regulatory oversight of Texas state-chartered credit unions.

**Source/Collection of Data**

A roster of all actual FTEs is maintained by the Staff Services Officer. Authorized FTEs are detailed in the Department's Annual Operating Plan and Budget approved by the commission each year.

**Method of Calculation**

The number of actual FTEs at month-end is divided by number of authorized FTEs for the applicable fiscal year.

**Data Limitations**

No control over staff turnover

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

95%

<b>Explanatory Measure: Number of Job Fairs Attended</b>
--

**Definition**

The actual number of job fairs attended during the fiscal year. Job fairs are events where the Department provides job related information to potential employment candidates.

**Purpose/Importance**

To assist the Department in identifying potential applicants for examination staff positions. It is imperative for our agency to maintain adequate examiner staffing levels in order that we may provide the necessary regulatory oversight of Texas state-chartered credit unions.

**Source/Collection of Data**

A monthly training report, which includes job fairs attended, is maintained by the Field Supervisors. The report is submitted monthly to the Executive Assistant to the Commissioner.

**Method of Calculation**

The Executive Assistant reviews the monthly training report provided by the Field Supervisors and counts the number of job fairs attended.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

Two per fiscal year

**Explanatory Measure: Turnover Ratio**

**Definition**

The number of staff resignations (excluding retirements) as a percentage of the number of staff positions.

**Purpose/Importance**

Because turnover results in a less experienced staff, this measure is one indicator of the Department's ability to meet its goals.

**Source/Collection of Data**

New hires, resignations, and the reasons given for resignations are tracked in a spreadsheet by the Staff Services Officer.

**Method of Calculation**

Divide the number of staff resignations (excluding retirements) received during a reporting period by the total number of staff FTEs for the same period.

**Data Limitations**

No control over staff turnover

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

<15%

**Explanatory Measure: Accreditation by NASCUS Maintained in Good Standing**

**Definition**

The Department is accredited by the National Association of State Credit Union Supervisors (NASCUS) as of the end of the reporting period.

**Purpose/Importance**

NASCUS accreditation is a national standard of excellence among credit union regulators. The Department must maintain its accreditation to maintain credibility among federal regulators and the national Congress.

**Source/Collection of Data**

A certificate of accreditation is awarded to the Department. This is displayed in the reception area of the Department’s building.

**Method of Calculation**

Determine if annual NASCUS accreditation is in good standing. If so, answer “YES”.

**Data Limitations**

None

**Calculation Type**

Non-cumulative

**New Measure**

No

**Target Attainment:**

Yes

**Explanatory Measure: Total Department Costs Relative to Every \$100,000 in Regulated Assets**

**Definition**

The fiscal year costs to operate the Department divided by Regulated Assets (Total regulated assets divided by \$100,000).

**Purpose/Importance**

This measure compares total operating costs to every \$100,000 of assets being regulated and supervised by the Department to evaluate the reasonableness of the costs of service delivery to the size of the industry under the jurisdiction of the Department.

**Source/Collection of Data**

The Department’s Annual Financial Report (AFR) will serve as the basis for determining the fiscal year costs. The aggregate total of credit union assets used to calculate the operating fees at the beginning of the fiscal year (June 30 Consolidated Financial Performance Report numbers for all Texas chartered credit unions) will serve as the basis for the total assets regulated by the Department for the fiscal year.

**Method of Calculation**

The numerator for this calculation is the fiscal year costs, and the denominator is the aggregate total of credit union assets divided by \$100,000.

**Data Limitations**

Could change dramatically if conversion or mergers result in significant changes to regulated assets. Staff turnover or an increase in the risk profile of credit unions requiring increased oversight could also impact the calculation.

**Calculation Type**

Cumulative

**New Measure**

No

**Target Attainment:**

\$9.39\*

*\*Target based on FY25 cost of \$8.94/\$100k of regulated assets times 105%. during the fiscal year.*

**SCHEDULE D: STATEWIDE CAPITAL PLANNING**

**NOT APPLICABLE**



## **Credit Union Department Fiscal Year 2027-2028 Workforce Plan**

### **I. Agency Overview**

The Department was established as a separate agency in 1969 to supervise and regulate state-chartered unions. This is accomplished through annual examinations of each credit union to ensure enforcement of laws, rules, bylaws, and sound business practices, imposing appropriate administrative sanctions, diligent monitoring between examinations, and aggressive remedial efforts when needed.

The administrative office of the agency is domiciled in Austin, but field examiners are based in Dallas/Fort Worth, Austin, and Houston. The largest percentage of employees are directly associated with the examination process including field examiners, a Director of Examination Support Activities, an Executive Assistant, and the Deputy Commissioner. The remaining positions include the Commissioner, General Counsel, Director of Information Systems and Technology, Network Specialist and supporting staff in Austin (See Appendix B: CUD Organizational Chart).

The Department currently is authorized for 36.0 full time equivalents (FTEs). Further expansion of the workforce may be necessary in FY27 and FY28 due to increases in the complexity and assets of regulated credit unions. Operating fees paid by the credit unions cover all agency expenses, including payments to other state agencies, such as the Office of Attorney General, for services performed.

#### ***A. Agency Mission***

*The mission of the Credit Union Department is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions industry in accordance with TEX. FIN. CODE §15.102.*

***B. Strategic Goals and Objectives***

The Texas Credit Union Department has two main goals, as follows:

Goal A	EFFECTIVE SUPERVISION AND REGULATION
Objective	To effectively supervise and regulate state-chartered credit unions through enforcement of safety and soundness standards and compliance with the Texas Finance Code, and in a manner that balances the interest of the membership and the need for public confidence in the credit union system.
Strategies	<ul style="list-style-type: none"> <li>• Examine all credit unions within 18 months of the previous examination.</li> <li>• Take appropriate enforcement action in problem credit unions.</li> <li>• Perform remedial examinations when necessary.</li> <li>• Respond promptly to member complaints.</li> <li>• Respond promptly to requests for interpretations or opinions.</li> <li>• Process applications in a timely manner.</li> </ul>

Goal B	ENSURE SAFETY AND SOUNDNESS
Objective	Through interaction with the Credit Union Commission and the Legislature, recommend statutory and rule changes to ensure that credit unions operate in a safe and sound manner in a competitive and ever-changing financial services industry.
Strategies	<ul style="list-style-type: none"> <li>• Promulgate new and amended rules.</li> <li>• Recommend statutory changes to the Legislature.</li> <li>• Provide oversight of departmental operations.</li> </ul>

***C. Anticipated Changes in Strategies***

The agency does not anticipate major changes to its business or workforce strategies. Offsetting the decline in the number of state-chartered credit unions is the increase in total assets of credit unions. Through September 2025, assets of Texas chartered credit unions total \$60.7 billion. In addition, the growth in assets of state-chartered credit unions has increased to 3.23 percent during 2025, compared to slower growth of 2.07 percent realized during calendar year 2024. Asset growth has remained modest for several years, which has allowed Texas charters to strengthen their capital position, as earnings have resulted in net income levels which have outpaced asset growth. Furthermore, as the current interest rate environment normalizes as it pertains to frequency of rate changes, the management of deposit and asset growth trends will be crucial to ensure Texas chartered credit unions are able to maintain and/or strengthen their net worth levels.

Using a risk-focused examination process, examiners give additional attention to the areas of operation that have been identified in a risk assessment. Because of the disparity in the size and complexity of credit unions, examiners remain generalists in terms of their expertise. However, each examiner is assigned a discipline (lending, investments, internal controls, compliance, information technology, etc.) of the examination process during their first year of employment. Subsequently, they are provided with more specific training in their discipline. The area of discipline for each examiner is assigned based on each examiner’s preference and the

availability of a discipline.

Due to the increased use of information technology in credit union operations and the critical need for adequate back up and security for these systems, the scope of the reviews for the information technology portion of examinations continues to expand. Most credit unions perform third-party information technology audits which the examiners review, and/or are hiring qualified third parties to perform specific information technology functions.

Between 2018 and 2020, the NCUA utilized the Automated Cybersecurity Examination Tool (ACET) to conduct cybersecurity maturity assessments of all federally insured credit unions to determine their cybersecurity preparedness. Over the three-year period, the tool was used on all state-chartered credit unions with over \$100 million in assets. Beginning in 2020, the NCUA began transitioning its priority from performing the ACET assessments to evaluating critical security controls. They also initiated a pilot called Information Technology Risk Examination solution for Credit Unions (InTREx-CU). InTREx harmonizes the IT and Cybersecurity examination procedures shared by the Federal Deposit Insurance Corporation, the Federal Reserve System and many state regulators. The In-TREx-CU pilot ended in August 2022 and was replaced with the Information Security Examination (ISE) Tool which is an automated questionnaire that is scalable based on the credit union size and services offered. The ISE examination tool is required to be completed for all federally insured credit unions and is currently in use during all Texas state-chartered credit union examinations.

## **II. Current Workforce Profile**

### ***A. Critical Workforce Skills***

The agency has a core group of qualified employees at the present time. The examiners, which represent most of the Department's employees, must have major coursework in accounting, finance, economics, business administration or a job-related field with a minimum of six hours, nine preferred, in accounting (including basic and intermediate accounting). In addition, a minimum grade point average must be met. Other skills that are important to the agency's ability to perform our business functions include:

- Financial statement analysis
- Investment analysis
- Proficient oral and written communication
- Investigative
- Loan analysis
- Internal control analysis
- Information technology analysis

The support staff must also possess skills that are critical to the operation of the agency. These skills include:

- Database development and maintenance
- Customer service
- Document processing
- Accounting/Payroll

## ***B. Workforce Demographics***

The following profiles the agency's workforce as of August 31, 2025. The agency was authorized 35.0 FTEs for fiscal year 2025. The CUD workforce is comprised of 54.8 percent males and 45.2 percent females. Just over two-thirds, or 68 percent, of the employees are over the age of 40. The average tenure of an agency employee increased during the last two years, from 9.3 to 11.4 years; and the average tenure of the seventeen field examiners at FYE 2025 was 6.4 years, representing a decline from the 7.6-year average from two years ago. Three examiners have been with the Department for less than two years, while five examiners have been with the agency for between two and less than five years. The remaining eight examiners have been on staff for greater than five years.

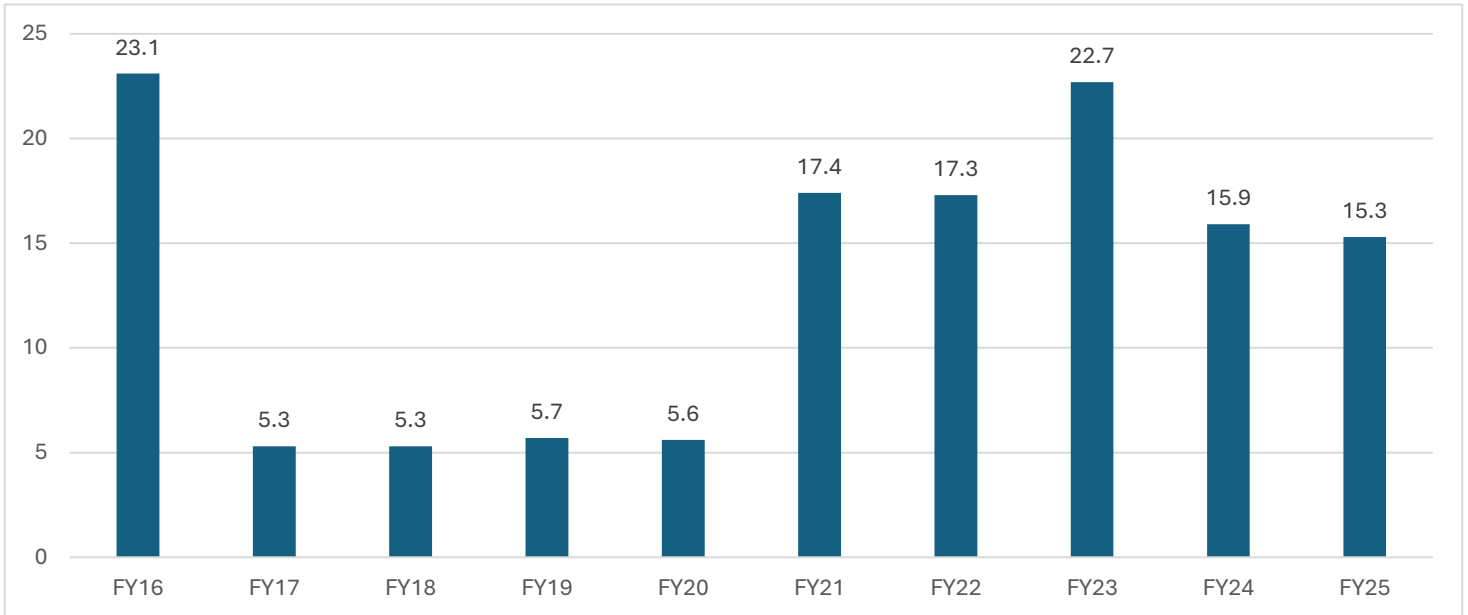
According to a recent Texas Workforce Commission Civilian Workforce Composition Report, the ethnic breakdown of the Texas workforce is 39.3 percent Anglo, 12.3 percent African American, 38.6 percent Hispanic and 9.7 percent Other. Additionally, 54.2 percent is male and 45.8 percent is female. Further, the 2020 U.S. Census showed that the Texas population was 39.8 percent Anglo, 39.3 percent Hispanic, 11.8 percent African American, and 9.1 percent Other. According to updated Census figures released in June 2023, the Hispanic population in the state of Texas surpassed the non-Hispanic white population during mid-2022.

## ***C. Employee Turnover***

Employee turnover is experienced by every business entity or governmental agency. It is costly to continually train new employees, diminishes efficiency of the staff, and adversely affects employee morale. Historically, the Credit Union Department has experienced high examiner turnover rates, attributable to non-competitive salaries, extensive travel requirements, and the nature of the work as a regulatory agency. In addition, examiners with experience of more than 2 to 3 years become attractive to credit unions due to their wide diversity of experiences, and familiarity with credit union laws and regulations. Experienced examiners were also attracted to the National Credit Union Administration (NCUA), the federal regulator, by higher salaries, less travel, and attractive locality adjustments in pay, based on the metroplex area where the examiner is headquartered.

During the ten-year period from FY 2016 to FY 2025, five examiners (average tenure of 63 months) were hired by credit unions and five examiners (average tenure of 48 months) were hired by NCUA. Another fifteen examiners left employment with an average tenure of 88 months. Two of the fifteen examiners were Field Supervisors who retired after approximately 26 years each with the Department. Excluding those individuals, the average tenure of the other ten examiners who left employment was 34 months.

### Examiner Turnover for 10 Years



#### ***D. Retirement Eligibility***

The agency was created in 1969, but over the years, very few employees have remained with the agency until retirement. Three employees retired in the early 1970s soon after the agency became independent from the Banking Department. Based on available information since 1996, 22 additional employees have retired from the agency. Four employees retired between 1996-2002, one medically; two employees retired at the end of FY 2003, prompted by the retirement incentive package authorized by the 78<sup>th</sup> Legislature; and two employees retired in fiscal year 2013. Additionally, since the beginning of FY2015 the pace of retirements within the Department has increased rapidly with fourteen employees having retired. Two retired in FY2016, one in FY2017, one in FY2018, one more in FY2019, three in FY2020, two in FY2021, one in FY2023, one in FY2024, and two in FY2025.

As of the beginning of FY2026, six office staff employees (5 are return to work retirees) are currently eligible for retirement, two examiners are eligible within one year, one more examiner is eligible within two years, and an additional two employees (1 office staff and 1 examiner) are eligible within five years. In total, approximately 25 percent of all budgeted Department positions, including approximately 43 percent of all office staff, are eligible to retire within two years. Furthermore, approximately 31 percent of all Department staff (office and field) are eligible within five years. Thus, immediate and ongoing succession planning remains critical to ensure the identification, hiring and development of successors for key positions. The inability to staff office positions over the next several years could create critical deficiencies with Department operations and its ability to provide effective oversight of the Texas Chartered system. In addition, of the fourteen allocated office positions, two of the individuals are headquartered remotely in Dallas.

### ***E. Other Considerations***

While beginning salaries for examiners have improved noticeably over the last seven years, retention of both entry-level and experienced examiners, particularly for the Financial Examiner (FE) I to V positions continue to be a problem as financial institutions and federal agencies continue to provide higher compensation and benefits and require less travel. For example, while base salaries for Department examiners are competitive with the levels offered by our federal counterpart (NCUA), the Department is not competitive with the total compensation package they offer. In addition to the base compensation the NCUA pays their field staff, examiners are also provided with locality pay based on the metroplex area where they are headquartered. In some instances, this adjustment can exceed 40 percent of their regular pay.

Agency wide, the turnover rate is anticipated to be 5 to 15 percent annually. The Department continues to assess pay levels, other benefits, and work condition enhancements to improve examiner retention.

## **III. Future Workforce Profile**

### ***A. Critical Functions***

- Risk based examination program
- Electronic delivery of examinations
- Offsite monitoring
- E-commerce security

### ***B. Expected Workforce Changes***

- Increased use of technology to revise and streamline work processes.
- Remote examination work is expected to remain at a level between 30 percent and 50 percent.

### ***C. Anticipated Increase/Decrease in Number of Employees Needed to Do the Work***

The FTE count is anticipated to increase by one to three team members over the next two years to ensure continuity of service and provide adequate staffing for:

- The third zone located in the Central Texas region, which was implemented in November 2023,
- To achieve succession planning needs,
- The increasing complexity of credit union examinations,
- The hiring of an examiner trainer to relieve some of the burden of training from the Field Supervisor positions, and
- Expanding the Department's reviews of consumer complaints and implementing a program geared specifically toward comprehensive reviews of consumer compliance,
- Increasingly complex information technology and cybersecurity needs of the Department.

### ***D. Future Skills Needed***

To effectively perform and process examinations, the agency relies upon a competent and knowledgeable staff. The skills mentioned previously under *Critical Workforce Skills* should be constant for the future; no

immediate new skill requirements are anticipated at this time. As employees gain more tenure and experience, their skills should become more refined; employees whose skills do not significantly improve or expand may not be retained.

**IV. Gap Analysis**

***A. Anticipated Surplus or Shortage of Workers or Skills***

After analyzing the workforce information, the Credit Union Department believes that there is one main gap between the agency’s workforce supply and demand that needs to be addressed.

***1. Attracting and retaining the right employees for the jobs at the Department***

- Competing for business majors with at least 6 to 9 hours of accounting,
- Younger employees are not staying with the agency,
- Developing a comprehensive succession plan focused on the identification and development of staff for key positions at the Department, and
- Assuring experienced, well-performing team members of regular salary increases, competitive compensation and benefit package compared to peers, and an environment focused on a good work/life balance.

**V. Strategy Development**

Gap	Attracting and Retaining the Right Employees
Goal	Become an employer of choice and offer career opportunities
Rationale	There is a competitive job market for qualified individuals with the skills required to perform the duties of an examiner. The agency will continue to reward exceptional performance within statutory limitations, provide staff development through training opportunities, and provide career opportunities, and support innovation and excellence.
Action Steps	<ul style="list-style-type: none"> <li>• Continue regular pay increases for high performance.</li> <li>• Consistently survey the market for similar positions to ensure the compensation being offered to our staff is competitive.</li> <li>• Allow employees who are seeking new challenges to work on special projects or assign development projects.</li> </ul>

Gap	Train and Mentor Employees
Goal	Develop staff where they can progress to key positions, as those key opportunities become available.
Rationale	There is a very high concentration of existing Department employees in key positions who are either eligible for retirement, or will become so, during the next 2 years. The agency must identify high potential staff and provide them with the tools and training necessary to fill key positions which are vacated due to retirement. Those identified as high potential employees must be placed on a fast-track approach for development and know that they have strong career prospects with the

	Department. The agency will continue to reward exceptional performance within statutory limitations, provide staff development through training opportunities, and provide career opportunities, and support innovation and excellence.
Action Steps	<ul style="list-style-type: none"> <li>• Continue regular pay increases for high performance.</li> <li>• Allow employees who are seeking new challenges to work on special projects or assign development projects.</li> <li>• Identify above average performers and put them on a fast-track approach for their career path.</li> <li>• Implement a training approach for high potential staff which focuses on accelerating their development and advancement with the agency.</li> </ul>

Given the increasing size and complexity of the credit unions we regulate, the Credit Union Department is anticipating some changes regarding examiner staffing and the examination processes during the next 2 to 3 years. Currently, the agency has 36.0 authorized FTEs (as of FY 2026), of which 22.0 FTEs are currently allocated for field examiner positions. Furthermore, possible retirements soon could adversely affect the organization, particularly in the office. Within the next 2 years a total of nine (9) employees, or approximately 25 percent of all Department staff (when fully staffed), will be eligible for retirement. Of these nine, six are office team members, meaning that approximately 43 percent of office staff will be eligible for retirement. Immediate succession planning remains critical to ensure the identification of staff for key positions as significant turnover due to retirement appears imminent within the next few years. In addition, the Department needs to devote adequate resources to mentoring and supporting less tenured examiners to ensure they gain the skills and experience to carry out the responsibilities which are needed to progress rapidly with the Department. It is important to note that there is a total of five new office employees on staff as of December 31, 2025, which were hired during the calendar year.

## 8. Discussion regarding the State Auditor's Audit Report on the Credit Union Department: A Self-directed, Semi-independent Agency (Report No. 26-017)

### Background

Finance Code Section 16.004 requires the State Auditor's Office (SAO) to audit financial regulatory agencies. Under that authority, the SAO conducted an audit of the Department's financial and performance data, applicable processes, and other supporting documentation, as well as its processes for setting fees and penalties for Fiscal Year 2025.

Department management's response to the audit begins on page 7 of the report.

### Staff recommendation

No action is anticipated.



An Audit Report on

# The Credit Union Department: A Self-directed, Semi-independent Agency

Lisa R. Collier, CPA, CFE, CIDA  
State Auditor

The Credit Union Department (Department) had effective processes to ensure the accuracy and completeness of its financial data and performance data. In addition, it had an effective process for setting its fees and penalties based on budgetary needs.

However, the Department should develop a year-end accrual process for preparing its annual financial report, verify that year-end adjusting entries are accurate, and consistently document its decisions to assess or waive penalties.

- [Background](#) | p. 3
- [Audit Objectives](#) | p. 11

*This audit was conducted in accordance with Texas Finance Code, Section 16.004.*

## MEDIUM

### FINANCIAL DATA

The Department had adequate processes for its financial data. However, it should improve year-end reporting processes and consistently document its decisions to assess or waive penalties.

[Chapter 1 | p. 4](#)

## LOW

### PERFORMANCE DATA

The Department accurately calculated the selected performance measure, **Percentage of Credit Unions Receiving Regular Examinations Annually**, and performed credit union examinations at the required frequency.

[Chapter 2 | p. 9](#)

## LOW

### SETTING FEES AND PENALTIES

The Department had adequate processes for setting its fees and penalties and calculating cash reserves.

[Chapter 3 | p. 10](#)

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## Summary of Management's Response

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Auditors made recommendations to address the issues identified during this audit, provided at the end of Chapter 1 in this report. The Department agreed with the recommendations.

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## Ratings Definitions

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Auditors used professional judgment and rated the audit findings identified in this report. The issue ratings identified for each chapter were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

**PRIORITY**: Issues identified present risks or effects that if not addressed could *critically affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

**HIGH**: Issues identified present risks or effects that if not addressed could *substantially affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

**MEDIUM**: Issues identified present risks or effects that if not addressed could *moderately affect* the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

**LOW**: The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks *or* effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

For more on the methodology for issue ratings, see [Report Ratings](#) in Appendix 1.

## Background Information

Texas Finance Code, Section 16.004, requires the State Auditor's Office to conduct an audit of each financial regulatory agency. We conducted this audit to comply with that requirement.

The Credit Union Department (Department) is responsible for the supervision and regulation of credit unions operating in Texas. The Department regulated 175 credit unions in fiscal year 2025.

The 81st Legislature designated the Department as a self-directed, semi-independent agency (SDSI) agency in 2009. As an SDSI agency, the Department does not receive state appropriations and must set its operating fees at a level sufficient to cover its cost.



**MEDIUM**

## Chapter 1 Financial Data

The Credit Union Department (Department) had effective accounting and reporting processes to ensure the accuracy and completeness of its financial data. However, the Department should develop a year-end accrual process for preparing its annual financial report, verify that year-end adjusting entries are accurate, and consistently document its decisions to assess or waive penalties.

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**The Department had adequate processes for its financial data; however, it should improve year-end reporting processes.**

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The Department's fiscal year 2025 annual financial report balances for operating fee and penalty revenues, payroll expenditures, and travel expenditures were supported by the Department's accounting and bank records. Specifically:

- **Operating fee and penalty revenues**<sup>1</sup> totaling approximately \$5.6 million were accurately calculated and recorded.
- **Payroll expenditures**<sup>2</sup> totaling approximately \$4.4 million were properly recorded and paid only to active employees.
- **Travel expenditures** totaling \$417,772 were accurate, supported, and allowable per the Comptroller's Office of Public Accounts (Comptroller's Office) travel requirements.

<sup>1</sup> Operating fees and penalties on the Department's annual financial report were reported within the Licenses, Fees, and Permits revenue line item.

<sup>2</sup> Payroll expenditures were reported within two separate line items: (a) Salaries and Wages and (b) Payroll-Related Costs.

**Year-End Accrual Process.** The Department did not have a year-end accrual process to ensure that expenditures were accrued and recorded in the correct fiscal year. As a result, 45 travel expenditure transactions were not recorded in the correct fiscal year's annual financial report, which resulted in a \$5,020 understatement for fiscal year 2025. The Comptroller's Office required agencies to make year-end adjustments as necessary to ensure the accuracy of financial reporting.

**Annual Financial Report.** The Department performed a year-end reconciliation of its annual financial report that was mathematically accurate and supported by underlying accounting and bank records. However, it had a minor calculation error on its annual financial report for fiscal year ending 2025, resulting in an overstatement of its fund balance by \$3,171.

This happened because the Department used its own financial statement template for the annual financial report, which incorrectly calculated a total, rather than the financial statement template provided by the Comptroller's Office, which is intended to assist agencies in preparing accurate financial statements.

**Year-End Adjustments.** In fiscal year 2025, the Department's year-end adjustments were supported by underlying data, but they were not recorded accurately, as required by the Comptroller's Office. Although three of four year-end adjustments had recording issues, the impact on the annual financial report was minimal because the errors were corrected during subsequent year-end processing. For example, one year-end entry was recorded erroneously as a reversal. Another entry meant to fix the reversal issue was recorded to the wrong fiscal year. Although there was a secondary review of the adjustments, that review did not detect the errors. However, there was no overall impact because the Comptroller's Office fixed the largest error during its year-end processes.

Accurate financial statements are critical for self-directed, semi-independent agencies to ensure transparency and enable stakeholders to make well-informed decisions about the agency's financial stability and operations.

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## The Department should consistently document its decisions to either assess or waive penalties.

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The Department is authorized to either charge a penalty when a credit union pays its operating fee late or waive the penalty amount based on “good cause.” While the Department had a process to track the penalty payments received, it did not consistently record the disposition of penalties. Specifically, for 8 of 10 (80 percent) credit unions that paid operating fees late, the Department did not document its determination of whether to pursue or waive \$16,365 in potential penalties, as required by its rules. The lack of documentation for its decisions may hinder management oversight and increase the risk that penalties are waived inconsistently.

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## Recommendations

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The Department should:

- Develop and implement a year-end accrual process for preparing its annual financial report.
- Update its financial statement template to align with the Comptroller’s Office template to ensure that its financial statement calculations are correct.
- Strengthen its process for reviewing year-end adjustments to ensure that adjustments are accurately recorded.
- Develop and implement a process to document its decisions to either assess or waive penalties.

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## Management's Response

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### **Recommendation**

Develop and implement a year-end accrual process for preparing the annual financial report.

### **Management's Response**

The Department agrees that a year-end accrual process must be developed to ensure that expenditures are accrued and reported for the correct fiscal year. We will comply with the SAO recommendation and develop a procedure for this accrual process to ensure it is utilized for the Department's financial report for fiscal year-end 2026, and for all fiscal years thereafter.

Responsible Management: Commissioner

Due: August 31, 2026

### **Recommendation**

The Department should update its financial statement template to align with the Comptroller's Office template to ensure that the Department's financial statement calculations are correct in its Annual Financial Report.

### **Management's Response**

The Department agrees to update its financial statement template to ensure consistency with the Comptroller's Office template. This will ensure the accuracy of annual financial statement reporting.

Responsible Management: Deputy Commissioner and Accountant

Due: August 31, 2026

### **Recommendation**

The Department should strengthen its process for reviewing year-end adjustments to ensure that adjustments are accurately recorded.

**Management's Response**

The Department agrees that its year-end process for reviewing adjusting entries needs to be strengthened. Although the cited errors had minimal impact to the annual financial report, it is imperative that the year-end review process of such entries is appropriate to ensure the accuracy of fiscal year-end financial reporting. The Department will address this issue beginning with its fiscal year-end 2026 financial reporting.

Responsible Management: Deputy Commissioner and Accountant

Due: August 31, 2026

**Recommendation**

The Department should develop and implement a process to document its decisions to either assess or waive penalties.

**Management's Response**

The Department agrees that its procedures regarding how it documents its decision to either assess or waive penalties need improvement. The Department will comply with the SAO recommendation of implementing a process to clearly identify the action being taken for situations where late fees or penalties can be assessed. The Department initiated this process prior to the end of the audit.

Responsible Management: Commissioner

Due: Immediately and Ongoing

## Chapter 2 Performance Data

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The Department had an adequate performance measure calculation process and conducted examinations at the required frequency.

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**Performance Measure Results.** The Department accurately calculated the selected performance measure, **Percentage of Credit Unions Receiving Regular Examinations Annually**, of 91 percent for fiscal year 2025. This measure monitors the Department’s performance in meeting the examination frequency requirement (see text box for requirement).

Specifically, the spreadsheet used by the Department to calculate the percentage had accurate formulas. In addition, key examination data used in the calculation was accurately entered into ACT! (the Department’s examination system) and reviewed by a secondary individual to verify the accuracy of that data.

In addition, the Department had application controls in ACT! to ensure the accuracy of examination data. Department employees had appropriate access to ACT! based on their job duties.

**Examination Frequency.** The Department performed all 147 credit union examinations during fiscal year 2025 at the required frequency. The Department used ACT! to track examination dates.

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### Examination Frequency Requirement

Title 7, Texas Administrative Code, Section 97.105, requires the Department to perform an examination of each credit union at least once during each 12-month period. The rule states that intervals between examinations shall not exceed 18 months (unless authorized).

**LOW**

## Chapter 3 Setting Fees and Penalties

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The Department had adequate processes for setting its fees and penalties, and calculating cash reserves.

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**Operating Fees and Penalties.** The Department set its operating fees and penalties and developed a budget in accordance with Texas Finance Code, Section 16.003. In fiscal year 2025, the Department increased its operating fees by 4.87 percent to align with its budgetary needs and performed an analysis to project its revenues and expenditures.

The Department's Commission reviewed and approved the fiscal year 2025 budget, as required by Texas Finance Code, Section 16.003.

**Reserve Account.** The Department is required to set aside funds in a reserve account to ensure that it can sustain operations. In fiscal year 2025, the Department accurately calculated its reserve amount and effectively managed the account in accordance with its policy.



## Appendix I

# Objectives, Scope, and Methodology

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## Objectives

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The objectives of this audit were to:

- Determine whether the Credit Union Department (Department) has processes and related controls to ensure the accuracy and completeness of financial and performance data.
- Evaluate the Department's processes for setting fees and penalties.

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## Scope

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The scope of this performance audit included a review of financial and performance data, applicable processes, and other supporting documentation for the period from September 1, 2024, through August 31, 2025. The work includes a review of the automated systems that support those processes.

The scope also included a review of significant internal controls related to the Department's financial data, including revenue collection, payroll and travel expenditures, penalties assessed and collected, and the accuracy and completeness of related data.

**The following members of the State Auditor's staff performed the audit:**



- Pamela A. Bradley, CPA, CFE (Project Manager)

- Lindsay Escalante, MPSA, CFE (Assistant Project Manager)
- Matthew Fox
- Rebecca Franklin, CICA, CISA, CGAP, CFE
- Marcus Kahler
- Ashley Keyfitz
- Benjamin Nathaniel Keyfitz, CPA, CFE
- Alana Montoro
- Meiyi Yan
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- Kelley Ngaide, CIA, CFE (Audit Manager)

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## Methodology

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We conducted this performance audit from July 2025 through January 2026 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, during the audit, matters not required to be reported in accordance with *Government Auditing Standards* were communicated to Department management for consideration.

### Addressing the Audit Objectives and Subobjectives

During the audit, we performed the following:

- Interviewed Department management and staff to gain an understanding of financial data, performance data, and the fee and penalty setting process.
- Identified the relevant criteria:
  - The Department’s policies and procedures.
  - Texas Finance Code, Chapters 15 and 16.
  - Texas Administrative Code, Title 1, Part 10, Chapter 202; Title 7, Part 6, Chapter 97; and Title 34, Part 1, Chapter 5.
  - The *Office of the Comptroller of Public Accounts’ Reporting Requirements for the Annual Financial Reports of State Agencies and Universities* and Textravel rates.
  - The Department’s Strategic Plan for fiscal years 2025-2029.
- Reconciled amounts in the Department’s fiscal year 2025 annual financial report to the Department’s underlying accounting and bank records.
- Tested the year-end reconciliation to determine whether it was complete and mathematically accurate.

- Tested the Department's year-end financial closing processes by reviewing adjustments and analyzing expenditures (including travel expenses) to determine whether transactions were recorded correctly and supported.
- Tested a sample of 27 travel expenditures from a population of 647 to determine whether they were recorded correctly and complied with travel requirements. The sample included 25 items selected randomly to provide population coverage, as well as 2 items that were targeted based on risk, as the largest expenses in the population. The sample was not representative of the population; therefore, it would not be appropriate to project the test results to the population.
- Recalculated all operating fee and penalty revenue to ensure that revenue was accurate, recorded, and properly monitored.
- Analyzed all of the Department's payroll expenditures to assess the accuracy and completeness of the associated expenses listed in the annual financial report.
- Reviewed user access to its accounting systems: the Uniform Statewide Accounting System (USAS) and Centralized Accounting and Payroll/Personnel System (CAPPS).
- Recalculated the selected performance measure, **Percentage of Credit Unions Receiving Regular Examinations Annually**, for fiscal year 2025 to determine whether it was accurate.
- Tested a sample of 22 credit union examinations from a population of 147 to verify that examination data in ACT! was accurate. The sample was chosen using random selection to obtain coverage of the population. The sample was representative of the population; therefore, test results may be projected to the population, but the accuracy of the projection cannot be measured.
- Tested whether the Department conducted examinations for fiscal year 2025 at the required frequency.
- Reviewed user access controls and application controls over the Department's ACT! system.
- Evaluated the Department's processes for setting operating fees and penalty amounts by reviewing fee adjustments and the annual budget.
- Reviewed the Department's compliance with its cash reserves policy.

## Data Reliability and Completeness

Auditors determined that all data sets obtained for the period of September 1, 2024, through August 31, 2025 (fiscal year 2025) were sufficiently reliable for the purposes of the audit by (1) observing data extractions or pulling data ourselves, (2) reviewing data queries and report parameters, (3) analyzing the key fields for reasonableness, (4) tying accounting data to the Department's annual financial report, and (5) testing user access controls over the three information systems. The following data sets were used:

- **USAS** (the State's accounting system): Revenues and expenditures.
- **CAPPS** (internal accounting system): Expenditures.
- **ACT!** (examination system): Credit union examination records (performance data).

In addition, to confirm proper period recognition of expenses, auditors also obtained USAS data for August 1, 2024, through August 31, 2024, and September 1, 2025, through September 30, 2025 (2 months outside of fiscal year 2025) and determined that the data was sufficiently reliable for the purposes of the audit by independently pulling data, reviewing report parameters, and analyzing key fields for reasonableness.

Auditors determined that the Department's operating fee tracking spreadsheets for fiscal year 2025 were sufficiently reliable for the purposes of the audit by independently verifying the number of credit unions and assets with another source of data—the National Credit Union Administration—and also matching the operating fee revenue to the Department's annual financial report.

## Report Ratings

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.



Copies of this report have been distributed to the following:

## **Legislative Audit Committee**

The Honorable Dan Patrick, Lieutenant Governor, Joint Chair

The Honorable Dustin Burrows, Speaker of the House, Joint Chair

The Honorable Joan Huffman, Senate Finance Committee

The Honorable Robert Nichols, Member, Texas Senate

The Honorable Greg Bonnen, House Appropriations Committee

The Honorable Morgan Meyer, House Ways and Means Committee

## **Office of the Governor**

The Honorable Greg Abbott, Governor

## **Credit Union Department**

Members of the Credit Union Commission

Mr. Robert Etheridge, Commissioner



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## 9. Approval of Department's Equal Employment Opportunity policy statement as required by Finance Code Section 15.313

### Background

Finance Code Section 15.313 requires the Commission to maintain a policy statement to assume implementation of a program of equal employment opportunity.

### Staff recommendation

Staff recommends approval of the policy statement as presented.

### Recommended motion

I move that the Commission approve the Equal Employment and Workforce Plan as presented.



**STATE OF TEXAS  
CREDIT UNION DEPARTMENT**

**EQUAL EMPLOYMENT AND  
WORKFORCE PLAN**

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## PREFACE

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

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

The Department's Equal Employment and Workforce Plan is intended to conform in good faith with [Title VII of the Civil Rights Act of 1964](#), codified as amended in various sections of 2 U.S.C., 28 U.S.C., and 42 U.S.C.; the [Civil Rights Act of 1991](#), codified as amended in various sections of 42 U.S.C. (Supp. III 1992); the [Equal Pay Act of 1963](#), 29 U.S.C. Chapter 8 § 206(d); the [Rehabilitation Act of 1973](#), codified as amended in various sections of 29 U.S.C. and 31-41c U.S.C.; the [Age Discrimination in Employment Act of 1967](#), 29 U.S.C. §§ 621-634 (2013); the [Americans with Disabilities Act of 1990](#) (ADA), 42 U.S.C. §§ 12101-12213 (2013); and the [Texas Labor Code](#) (hereafter collectively referred to as the Equal Employment Opportunity ["EEO"] laws), as well as the related federal regulations.

# **CREDIT UNION DEPARTMENT EQUAL EMPLOYMENT AND WORKFORCE PLAN**

## **Policy Statement**

It shall be the public policy of the Credit Union Department not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, gender identity, sexual orientation, pregnancy, status as a parent, age, disability (physical or mental) status, family medical history or genetic information, political affiliation, military service or other non-merit factors.

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

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

Supervisors are required to ensure that all employees and prospective employees are afforded equal employment opportunities.

Advancement within the Department's organizational structure will be attained by meritorious performance.

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

## **Responsibilities**

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

The Commission is responsible for establishing policies and monitoring the implementation of the plan through periodic reports submitted by the Commissioner. The Commission, through Department staff, shall review the plan annually for purposes of revision or modification. The staff

shall review the personnel policies, procedures, and practices and shall include recruitment, selection, promotions, job descriptions, classifications, compensation, discipline, or other terms and conditions affecting the equal employment opportunities of applicants for employment or employees. Any changes to the plan resulting from the annual review will be submitted to the Commission for approval.

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

## **Goal**

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

## **Actions to Achieve Goals**

### **I. Policy Dissemination**

- A. The Department shall use the communication network of the Texas Workforce Commission to provide notice of the Department's equal employment policy. In notifications posted for vacant positions, including posting on the Department's website, the Department shall include information that it is an equal employment opportunity employer.
- B. As part of new employee onboarding, each new employee shall receive a copy of the Department's Equal Employment and Workforce Plan and its Equal Employment Opportunity Policy.

### **II. Recruitment**

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

Notices of vacant positions shall be posted for at least ten days.

### **III. Selection Procedures**

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

- A. Position audits shall be conducted on a continuing basis (within resources available) to ensure that current position descriptions accurately reflect the actual duties, tasks, and responsibilities required to successfully perform the job. These audits shall also be used to determine the appropriateness of the minimum qualifications for the positions and to ensure that only valid, job-related qualifications are required.
- B. All testing, and screening procedures shall be reviewed on a continuing basis (within resources available) to ensure their job-relatedness and validity. Information acquired from the position audits shall be used to construct valid, job-related tests and screening procedures.
- C. All employment interviews shall be reviewed for job relatedness. Non-job-related questions and those items that may tend to screen out an ethnic or racial group shall be eliminated. Technical assistance in the construction of interview questions and interviewing procedures shall be given to hiring authorities.

#### IV. Upward Mobility

- A. Employees shall be encouraged to participate in training or educational opportunities that enhance their skills.
- B. In-service training programs shall be designed and implemented to increase promotion opportunities for employees. On-the-job training and/or cross-training programs shall be developed to expose employees to a broad range of job duties and experiences.

### **Discipline Procedures**

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

### **Appeal and Grievance Procedures**

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

These procedures shall help protect both the employee and the employer by providing both parties

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

### **Monitoring Achievement**

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

A. Appeal and Grievance Status

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

### **Time Frame for Implementation**

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

### **HISTORY**

APPROVED BY COMMISSION	November 3, 2017
	October 15, 2018
	November 1, 2019
	March 5, 2021
	November 3, 2023
	March 27, 2026

## 10. Approval of new Deputy Commissioner pursuant to Texas Finance Code Sec. 15.303

### Background

Finance Code Section 15.303 requires Commission approval of the deputy commissioner. An interim deputy commissioner has been hired in anticipation of Commission approval for him to serve as deputy commissioner. Materials in support of his hiring will be provided to the Commission members separately.

### Staff recommendation

Staff recommends approval of the hiring of the deputy commissioner.

### Recommended motion

I move that the Commission approve the interim deputy commissioner to serve as deputy commissioner of the Credit Union Department.

# 11. Report on the status of the state credit union system – Deputy Commissioner

## **Overview:**

The Texas credit union system continued to demonstrate resilience and steady improvement in 2025. Supported by a growing state economy and improving financial performance trends, state-chartered credit unions remain well positioned to serve their more than 4 million members.

## **Economic Update:**

The Texas economy remained among the stronger state economies in 2025, consistently outpacing or matching national trends despite a broader U.S. slowdown.

Gross Domestic Product (GDP): Texas (GDP) achieved an estimated 2.6 percent growth rate, while the U.S. GDP expanded 2.2 percent with growth weakening sharply in the fourth quarter. Texas benefited from solid productivity gains in technology, energy, and advanced services, even as hiring trends softened.

Labor market: Conditions cooled in Texas and nationally, finishing the year with unemployment rates of 4.3 percent and 4.4 percent, respectively. Texas led the nation in total job creation, adding roughly 132,000 positions during the year even as nationwide hiring slowed significantly. Both economies experienced reduced job openings and slower payroll gains.

Inflation: Texas and U.S inflation eased notably in late 2025. National Consumer Price Index (CPI) increased 2.7 percent. Texas CPI increased 1.7 percent, among the lowest in the country.

Housing: Market conditions remained tight but showed signs of gradual easing in late 2025 with modest softening in price growth accompanied by increased

inventory levels. Texas and U.S. median home prices stabilized near \$333,000 and \$410,000, respectively.

Outlook: In 2026, national GDP growth is projected to remain in the 1.7 to 2 percent range. Texas is positioned for a rebound, with job growth expected to rise to approximately 1.1 percent. Additional upside potential comes from expanding AI-related data centers, continued construction strength, and a business-friendly economic climate. While both the U.S. and Texas face external pressures, such as trade volatility and interest-rate uncertainty, Texas enters 2026 well positioned, outperforming the nation on growth, employment, and long-term positioning.

### **Industry Performance:**

Texas-chartered credit unions remain in sound financial condition, marked by improved earnings, increased capital, moderate asset growth, and manageable credit risk exposure. Credit unions enter 2026 with stable fundamentals and capacity to absorb ongoing economic and credit-cycle pressures. As of December 31, 2026, there were 159 state-charters in Texas, down three credit unions from twelve months ago.

Earnings Performance: Profitability improved materially due to strengthened net interest margins and income diversification. Net income increased from \$324.27 million in 2024 to \$450.72 million in 2025, an improvement of 42.9 percent. The return on average assets (ROAA) increased from 0.56 percent to 0.75 percent, while the net interest margin (NIM) expanded from 3.28 percent to 3.56 percent, supported by higher yields on both loans and investments.

Capital Adequacy: Texas credit unions remained well-capitalized. The aggregate net-worth ratio increased from 11.53 percent in 2024 to 11.65 percent in 2025. The risk-based capital ratio increased from 13.84 percent to 13.98 percent, indicating strengthened capital relative to risk-weighted assets. Total equity increased from \$6.32 billion to \$6.93 billion, primarily due to retained earnings.

Growth Trends: Balance-sheet expansion was supported by sustained deposit inflows and modest loan growth. Aggregate total assets increased from \$58.85 billion at year-end 2024 to \$61.61 billion at year-end 2025, representing 4.7 percent growth. Total loans expanded from \$42.92 billion to \$44.36 billion (3.4 percent increase). Shares and deposits grew from \$49.62 billion to \$51.54 billion, up 3.9 percent year-over-year.

Credit Risk: Asset-quality performance indicators remained generally stable in 2025. The delinquency ratio decreased from 1.02 percent in 2024 to 1.01 percent in 2025, while the net charge-off ratio increased from 0.80 percent in 2024 to 0.82 percent in 2025. Real estate loan portfolios experienced a minor increase in past-due activity, while indirect auto lending continued to account for the majority of consumer credit-risk exposure.

Overall, state chartered credit unions concluded 2025 with sound financial performance. However, it remains important for credit unions to monitor and adapt to the economic and financial environment to safeguard the financial interests of the over 4 million members of Texas credit unions.

Key Ratio	2019	2020	2021	2022	2023	2024	2025
Net Worth/Total Assets	11.10	10.36	10.43	10.90	11.34	11.53	11.65
Delinquent Loans/Total Loans	0.71	0.75	0.52	0.61	0.81	1.02	1.01
Net Charge-Offs/Avg. Loans	0.69	0.57	0.36	0.37	0.59	0.80	0.82
Return on Average Assets	0.88	0.70	1.08	0.96	0.69	0.54	0.75

**PROBLEM INSTITUTIONS:**

As of December 31, 2025, there were 19 credit unions assigned a composite CAMELS rating of 3 or higher, which is a decline of three credit unions from December 31, 2024. These institutions represent 11.95 percent of all Texas charters 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.

Additionally, 17 state-chartered credit unions reported net losses of \$16 million, while the remaining 142 credit unions reported aggregate net income of \$451 million. The breakdown of the number of credit unions with positive earnings performance, by asset category, is as follows:

<b>Assets Size</b>	<b># of CUs</b>	<b># Profitable</b>	<b>% Profitable (09-30-2025)</b>	<b>% Profitable (12-31-2024)</b>	<b>% Profitable (12-31-2023)</b>	<b>% Profitable (12-31-2022)</b>
\$1 Billion & over	19	17	89%	100%	100%	94%
\$500 to \$999.9 Million	15	15	100%	81%	80%	100%
\$250 to \$499.9 Million	13	12	92%	69%	100%	100%
\$100 to \$249.9 Million	22	19	86%	84%	88%	96%
\$50 to \$99.9 Million	19	18	95%	100%	85%	95%
\$10 to \$49.9 Million	42	38	90%	88%	89%	81%
Under \$10 Million	29	23	79%	87%	77%	59%
Totals	159	142	89%	88%	87%	86%

**ENFORCEMENT ISSUES:**

As of December 31, 2025, the Department had the following administrative sanctions outstanding:

Dividend Restrictions 0  
 LUAs 0  
 Determination Letters 1  
 Conservatorships 0  
 Cease and Desist 2

**CHARTERING ACTIVITY**

New Charters\* 0

\*Since last commission meeting

**STAFF RECOMMENDATION:**

No formal action is anticipated.

12. Updates regarding pending litigation:

- a. Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168
- b. Cooperative Teachers Credit Union v. Credit Union Department, State Office of Administrative Hearings Docket No. 469-23-07487

Background

General Counsel Devon Bijansky will provide an update regarding these items.

Staff recommendation

No action is anticipated.

13. Future Commission meetings – dates, agenda items, and arrangements

- Friday, July 17, 2026
- Friday, November 6, 2026

14. Adjourn