CREDIT UNION COMMISSION MEETING

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

Friday, November 6, 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) on the day of the meeting. Public comment on any agenda item or issue within the jurisdiction of the Commission is permitted, but the Commission cannot deliberate or address any item that is not specifically listed on the agenda. 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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10. 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 a matter made confidential by law pursuant to Texas Government Code § 551.081, to discuss pending litigation or obtain advice of legal counsel on agenda items pursuant to Texas Government Code § 551.071, to discuss personnel matters pursuant to Texas Government Code § 551.074, and to discuss cybersecurity matters pursuant to Texas Government Code § 551.0761.

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 Biancaja Sugars, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752, telephone (512) 837-9236, as far in advance of the meeting as possible. An individual who is speech- or hearing-impaired may contact Relay Texas for assistance by calling 711.

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

<u>Credit Union Commission members</u>

Jim Minge, Chair

Becky L. Ames, Vice Chair

David Bleazard

Karyn C. Brownlee

Cody R. Huggins

Sara Jones Oates

Chance Peeler

David F. Shurtz

<u>Staff</u>

Robert Etheridge, Commissioner

Devon Bijansky, Legal Counsel

David Borden, Deputy Commissioner

Isabel Velasquez, Executive Assistant

2. Approve minutes of the August 7, 2026, Commission meeting

Staff recommendation

Approve the minutes as presented.

Recommended motion

I move that the minutes of the August 7, 2026, Commission meeting be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
August 7, 2026

1. CALL TO ORDER -- Chair Jim Minge called the meeting to order at 9:01 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, Sara Jones Oates, David F. Shurtz, Cody Huggins (present remotely). Representing the Department staff were Commissioner Robert W. Etheridge, Deputy Commissioner David C. Borden, General Counsel Devon Bijansky, 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 **(July 28, 2026 TRD#2026004463)**.

- **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES --** Chair Minge inquired if there were any requests or motions to excuse an absence. Mr. Bleazard moved to excuse commission member Karyn Brownlee from the Commission meeting on August 7, 2026. Mrs. Ames seconded the motion, which was unanimously adopted.

Chair Minge stated that it was a historic day in that two former commissioners as well as the current commissioner were at the meeting, as well as and Mr. Feeney, who was attending remotely. Mr. Minge thanked the other guests for attending.

- **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.

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2. RESOLUTION ACKNOWLEDGING THE CONTRIBUTIONS OF FORMER COMMISSION MEMBER KAY RANKIN-SWAN – Chairman Minge indicated that it is the practice of the Commission to adopt resolutions of appreciation to recognize the service of former Commission members. Commissioner Etheridge went on record to thank Mrs. Swan for her many years of service and dedication to the industry as a whole.

Mr. Shurtz moved that the Resolution acknowledging the contributions of Kay Rankin-Swan to the Credit Union Commission be adopted as presented.. Mr. Bleazard seconded the motion, which was carried unanimously.

3. APPROVE MINUTES OF THE MARCH 27, 2026, COMMISSION MEETING -- 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 March 27, 2026, meeting as presented. Mrs. Oates seconded the motion, which was carried unanimously.

4. AUDIT COMMITTEE REPORT – CHAIR BECKY AMES

a. Discussion regarding the FY 2026 Internal Audit Report and possible action to accept the report and authorize its submission to the State Auditor's Office.

An internal audit was conducted for FY 2026 with a focus on payroll processes. There were two recommendations which staff was in the process of implementing.

After a report from Mr. Graves on the audit process, Mrs. Ames moved that the Commission accept the FY 2026 Internal Audit Report and authorize its submission to the State Auditor's Office. Coming upon a recommendation from the Audit Committee, a Standing Committee of the Commission, no second is required, and the motion was carried unanimously.

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b. Update regarding FY 2025 internal audit report.

Mrs. Ames reported there was an audit of IT general control processes which Mr. Graves would be addressing in the meeting. No action was taken on this agenda item.

c. Authorize staff to take steps to procure internal audit services.

Mrs. Ames reported that our original contract entered into in 2023 was ending at the end of the month and would need to be rebid. The committee recommended authorizing staff to procure a new contract as long as the price is within 10% of the amount budgeted for fiscal year 2027.

Mrs. Ames moved that the commission authorize staff to procure internal audit services provided that the cost does not exceed the budgeted amount by 10%. Coming upon a recommendation from the Audit Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

5. RULEMAKING MATTERS – RULES COMMITTEE – CHAIR DAVID SHURTZ.

a. Adoption or other action on amendments to:

i. 7 TAC Section 91.1003, Mergers/Consolidations.

Mr. Shurtz reported the amendments to 7 TAC Section 91.1003 would prohibit merger inducements and require merger-related financial arrangements (both as defined in the rule) to be disclosed to members. The amendments also revise certain requirements for approval by the Department, increase consistency between the Texas and NCUA merger rules, and make non-substantive changes for clarity and readability. Mr. Shurtz reported that two comments were submitted in support of the amendments as proposed.

- **David Bleazard, Commission Member**, commented that he believes this rule is absolutely needed and is step forward for members in considering mergers and merger related financial arrangements, and avoiding potentials

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of pay for vote schemes and other things that could be detrimental to members when considering a merger, and strongly supports this.

Mr. Shurtz moved that the commission adopt the amendments to **7 TAC Section 91.1003** as proposed. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

a. Adoption or other action on amendments to:

ii. 7 TAC Chapter 91, Subchapter G:

A. Section 91.709, Member Business and Commercial Loans.

B. Section 91.714, Leasing.

Mr. Shurtz reported that Section 91.709 clarifies the concept of controlling interests in commercial loans and making 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. Furthermore, Mr. Shurtz reported no comments were submitted in response to the proposed amendments.

Mr. Shurtz moved that the commission adopt the amendments to **7 TAC Section 91.709 and 91.714** as proposed. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

a. Adoption or other action on amendments to:

iii. 7 TAC Chapter 95, Subchapter A:

A. Section 95.105, Reporting

B. Section 95.108, Examinations

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C. Section 95.110, Enforcement; Penalty; and Appeal

Mr. Shurtz reported the amendments to Section 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 Section 95.108, Examinations, incorporate provisions from Section 95.109, Fees and Charges, relating to fees for examinations of insuring organizations, which is recommended for repeal at this meeting. Furthermore, Mr. Shurtz reported no comments were submitted in response to the amendments as proposed.

Mr. Shurtz moved that the commission propose the amendments to **7 TAC Sections 95.105, 95.108, and 95.110** as proposed. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

a. Adoption or other action on 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

Mr. Shurtz reported that the amendments make non-substantive corrections to the titles of other rule sections referenced in these rules. Furthermore, Mr. Shurtz reported no comments were submitted in response to the amendments as proposed.

Mr. Shurtz moved that the commission propose the amendments to **7 TAC Sections 95.302, 95.305, and 95.310** as proposed. Coming upon a recommendation

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from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

b. Adoption of repeal of 7 TAC Section 95.109, Fees and Charges.

Mr. Shurtz reported this repeal was being recommended in conjunction with the recommendation to add its provisions to Section 95.108, which contains similar provisions regarding examinations of insuring organizations. Furthermore, Mr. Shurtz reported no comments were submitted in response to the amendments as proposed.

Commissioner Etheridge reminded the commission that Section 95.109 was combined with Section 95.108.

Mr. Shurtz moved that the commission adopt the repeal of **7 TAC Section 95.109**. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

c. Proposal of amendments to:

i. 7 TAC Chapter 91, Subchapter E:

A. Section 91.501, Director Eligibility and Disqualification

B. Section 91.502, Director/Committee Member Fees, Insurance, Reimbursable Expenses, and other Authorized Expenditures.

Mr. Shurtz reported the amendments to Section 91.501 would add flexibility to the recordkeeping requirement for applications of new directors. The amendments to Section 91.502 would correct the title of a rule referenced in the section.

Commissioner Etheridge explained that the amendments to Section 91.501 would provide credit unions with the flexibility of incorporating the applications for

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directors in the minutes for the meeting before or the first meeting after the appointment of a director. Previously it was in the meeting after.

Mr. Shurtz moved that the commission propose the amendments to 7 TAC Sections 91.501 and 91.502 as presented. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

c. Proposal of amendments to:

ii. 7 TAC Chapter 91, Subchapter F:

A. Section 91.601, Share and Deposit Accounts

B. Section 91.608, Confidentiality of Member Records

C. Section 91.610, Safe Deposit Box Facilities

Mr. Shurtz reported that the committee recommended removing Section 91.601, Share and Deposit Accounts, from this agenda so that it could be considered further at a future meeting. The amendments to 91.608 would update a reference to the federal regulations. The amendments to 91.610 would update the references to the statute regarding imprinting of safe deposit keys to Chapter 125 of the Finance Code, which relates to credit unions, instead of Chapter 59, which relates to banks, and would delete certain provisions that are duplicative of or in conflict with the statute.

Commissioner Etheridge stated that within the rule there was a form that credit unions used to report when a key had been defaced and that the amendments would be removed and placed on the Department website.

Mr. Shurtz moved that the commission propose the amendments to **7 TAC Sections 91.608 and 91.610** as presented. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

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d. Adoption of rule review and readoption of rules in 7 TAC Chapter 91, Subchapters E and F.

Mr. Shurtz reported that in accordance with the plan approved on March 22, 2024, that established a schedule for the review of each section of the rules, staff reviewed the above referenced subchapters, believed the amendments addressed previously in this agenda were 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 May 8, 2026, issue of the *Texas Register*. One comment was received prior to the publication of the rule review regarding 7 TAC Section 91.601, as addressed in the previous agenda item. The Department believes that the reasons for adopting these rules continue to exist.

Mr. Shurtz moved that the commission find that the reasons for adopting 7 TAC Chapter 91, Subchapters E and F continue to exist and readopt the rules in these subchapters. Coming upon a recommendation from the Rules Committee, a standing committee of the Commission, no second was required, and the motion was carried unanimously.

6. Pending Litigation:

a. Update regarding Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168. General Counsel, Ms. Bijansky reported that she spoke with our representative at the Attorney General's Office and we have finally gotten approval from both sides of the case to go ahead and submit an agreed order resolving this matter to the court for approval. A notice was first being sent to the original requester of the information just to ensure that they do not want to intervene. Ms. Bijansky reported that the agreed order was expected to be submitted to the court within the next few weeks and that hopefully the matter would be resolved before the next meeting.

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b. Discussion and possible action regarding Cooperative Teachers Credit Union v Credit Union Department, State Office of Administrative Hearings Docket No. 469-23-07487. On February 13, 2025, Cooperative Teachers Credit Union (CTCU) appealed the final order of the commissioner relating to its field of membership request to include 254 counties within the state of Texas. While previously there was confusion as to the proper venue for this appeal, Ms. Bijansky indicated that this matter should be considered by the full Commission. Tim Miller of CTCU had requested fifteen minutes of oral argument, and the Commissioner also requested the same.

Commissioner Etheridge provided a detailed explanation of some of the findings as to how he arrived at his decision on the original FOM application submitted by Cooperative Teachers Credit Union.

Mr. Miller provided a detailed explanation as to why he believed the administrative law judge's proposed order should be adopted in full by the Commission.

- **David Shurtz, Commission Member,** went on record to say that the credit union does not have the ability to serve its field of membership and the proposal for decision should be amended.

- **David Bleazard, Commission Member**, commented that all the details of the case aside, the Commission should not approve a statewide field of membership.

After hearing the testimony, the Commission recessed the open meeting and went into executive session at 10:04 a.m. The Commission adjourned its executive session and reconvened at 10:39 a.m.

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Mr. Shurtz made a motion to rescind the February 5, 2025, final order on remand and adopt the proposal for decision with the changes Chair Minge would outline, as reflected in the draft order modifying its proposal for decision. Mr. Minge outlined the changes to Findings of Fact numbers 4, 5, 11, 12, 16, 19, and 20 and Conclusions of Law numbers 3.a., 5.b., 7, 8., 9, 10, with current 10 to become the new 11. Mrs. Ames seconded the motion, which was unanimously adopted.

7. Commissioner's report – Commissioner Robert Etheridge:

a. Department's FY 2026 budget and financial performance

b. Department operational status and accomplishments

c. Employee/team highlights

d. Upcoming priorities

a. Department's FY 2026 Budget and Financial Performance – Commissioner Etheridge highlighted the Department's results for the period ending May were $336,259 or approximately 7.4% below budgeted projections. This primarily consists of personnel, which was just under $158,000 below, supplies and materials at $55,000 below, and other operating costs at just under $111,000 below.

b. Department operational status and accomplishments – Commissioner Etheridge was happy to report that there continued to be no field staff turnover this far in Fiscal Year 2026. All exam teams for all the zones were fully staffed. He stated that the Dallas zone supervisor was retiring effective October 31st. Interviews would be conducted in the upcoming week or so. He further stated that there was one open office position. There were also two new office staff members since the last meeting: Executive Assistant to the Deputy Commissioner, Brenda Medina, who worked for the Department previously, and a new compliance analyst in the complaints area, Elizabeth Beaver, who would be assisting in reviewing and processing complaints. Commissioner Etheridge further reported that the department had processed a total of 668 complaints through the first three quarters of this year.

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Lastly, he outlined additional accomplishments in the different areas of operations.

c. Employee/team highlights – Commissioner Etheridge briefly reported being so proud to say that everybody was continuing to perform at a very high level of productivity, with everyone working very hard to maintain and improve the continuity of our operations.

d. Upcoming priorities and goals – Commissioner Etheridge briefly reported that the Department was going through the 5-year accreditation review by the National Association of State Credit Union Supervisors (NASCUS) beginning in September. He reported as well as having a meeting on the 13th with the policy advisor for the speaker of the house. There was also an upcoming meeting scheduled with the Commissioner and General Counsel with the Texas Regulatory Efficiency Office, an office within the Office of the Governor created to help identify outdated and redundant or ineffective rules.

Commissioner Etheridge further reported that staff was also working diligently to resolve the internal audit findings from last year's audit. In Fiscal Year 2027 the existing server room would be converted into an office. He also stated that he would be working to develop policies and applicable rules related to digital assets, and looking into the possibility of a segmented AI solution called the sandbox and trying to identify ways that the Department may be able to streamline certain aspects of operations.

8. Department operating plan and FY 2027 budget. Commissioner Etheridge reported that, consistent with the FY 2027 budget assumptions approved by the Commission in March 2026, the following pages detail a proposed budget for FY 2027 of $6,183,204, representing a 0.41% decrease from the FY 2026 budget. The proposed budget includes strategic initiative funds for the funding of equity adjustments for certain staff positions ($53,800), merit increases and anticipated

promotions ($148,018); modernization of the Department's online systems/website ($27,000), modernization of Information Technology Infrastructure ($35,000), server room buildout costs ($28,000), and capital improvement funding for building maintenance and repairs (25,000).

Mr. Etheridge followed with a quick overview of how the budget process typically works and reviewed the different strategic initiatives.

After a short discussion, Mrs. Ames moved that the Commission approve the proposed FY 2027 Operating Plan and Budget, with a total budget of $6,183,204 and 36 FTEs. Mr. Bleazard seconded the motion, which was carried unanimously.

9. Report on the status of the state credit union system – Deputy Commissioner David Borden. Deputy Commissioner Borden reported that Texas continued to show resilience and steady improvement throughout the first quarter of 2026. The Texas economy remained among the stronger state's economies in 2025, consistently outpacing or matching national trends despite a broader U.S. slowdown. Furthermore, he highlighted a few key trends:

Gross Domestic Product (GDP): Texas grew at an annual rate of 2.1% in the first quarter of 2026, supported by strength in technology, energy, advanced services, government and manufacturing, positioning the state among the stronger performers even as national growth remained moderate.

Labor Market: Conditions remained stable in both Texas and the nation during the first quarter of 2026. The Texas unemployment rate held steady at 4.3% throughout the quarter, matching the national average.

Inflation: Price pressures moderated overall in late 2025 but accelerated in early 2026 due to energy costs linked to Middle East geopolitical tensions. Texas Consumer Price Index (CPI) rose approximately 3.0% year-over-year (YOY) in March 2026, remaining below the National CPI rate of 3.3%.

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Housing: Market conditions continued to ease in the first quarter of 2026, with rising inventory and modest softening in prices.

Outlook: Texas GDP growth for 2026 was generally projected in the 1.8% to 2.5% range, while U.S. GDP growth was projected to be 1.9% to 2.2%. Texas was positioned for solid performance, with the Dallas Fed's latest employment forecast calling for approximately 2.0% job growth in 2026, near the state's long-run trend.

Earnings Performance: Profitability improved year-over-year, supported by stronger net interest margins. The return on average assets (ROAA) increased from 0.53% in the first quarter of 2025 to 0.74% in the first quarter of 2026. The net interest margin expanded to 3.54%, reflecting higher yields on loans and investments amid the elevated rate environment.

Capital Adequacy: Texas credit unions remained well-capitalized. The aggregate net worth ratio increased from 11.44% as of March 31, 2025, to 11.66% as of March 2026. The risk-based capital ratio also strengthened, and total equity increased $584 million.

Growth Trends: Balance sheet expansions continued at a moderate pace. Aggregate total assets increased from $60.03 billion as of March 31, 2025, to $62.59 billion as of March 31, 2026, representing approximately 4.3% growth. Total loans expanded from $43.24 billion to $44.81 billion or 3.6%. Shares and deposits grew from $50.80 billion to $52.71 billion, up 3.8% year-over-year.

Credit Risk: Asset quality indicators remained generally stable. The delinquency ratio remained steady at 0.80% as of March 31, 2025, and March 31, 2026. The rolling 12-month net charge-off ratio edged up modestly from 0.81% to 0.85%.

Overall, state-chartered credit unions began the first quarter of 2026 with sound financial performance. Deputy Commissioner Borden noted the ongoing importance of credit unions continuing to monitor and adapt to the economic and financial environment to safeguard the interests of more than 4 million members.

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After a brief discussion on some other key financial trends, no formal action was taken by the Commission.

12. Future Commission meetings – dates, agenda items, and arrangements:

Friday, November 6, 2026

Friday, March 5, 2027

13. ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 11:36 a.m.

_____	_____
Jim Minge	Isabel Velasquez
Chairman	Recording Secretary

Distribution:

Legislative Reference Library

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FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 10-12-2026)
August, 2026		
7 TAC Part 6, Chapter 91 Subchapter J, Section 91.1003 (Mergers/Consolidations)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter G, Section 91.709 (Member Business and Commercial Loans)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter G, Section 91.714	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter A, Section 95.105 (Reporting)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter A, Section 95.108 (Examinations)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter A, Section 95.110 (Enforcement; Penalty; and Appeal)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter C, Section 95.302 (Powers)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026

FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 10-12-2026)
7 TAC Part 6, Chapter 95 Subchapter C, Section 95.305 (Audited Financial Statements; Accounting Procedures; Reports)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter C, Section 95.310 (Fees and Charges)	Published in *Texas Register* as adopted rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 95 Subchapter A, Section 95.109 (Fees and Charges)	Published in *Texas Register* as adopted repeal	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter E, Section 91.501 (Director Eligibility and Disqualification)	Published in *Texas Register* as proposed rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter E, Section 91.502 (Director/Committee Member Fees, Insurance, Reimbursable Expenses, and other Authorized Expenditures)	Published in *Texas Register* as proposed rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter F, Section 91.608 (Confidentiality of Member Records)	Published in *Texas Register* as proposed rule	Published in *Texas Register* on 08/27/2026
7 TAC Part 6, Chapter 91 Subchapter F, Section 91.610 (Safe Deposit Box Facilities)	Published in *Texas Register* as proposed rule	Published in *Texas Register* on 08/27/2026

3. Commissioner Evaluation matters – Commissioner Evaluation Committee – Chair Karyn Brownlee

a. Commissioner's FY 2026 performance evaluation and Commissioner remuneration

Background

The Commissioner Evaluation Committee is a standing committee of the Commission. Commission policy requires an annual performance evaluation of the Commissioner. Accordingly, the Committee will make a recommendation to the Commission relating to the FY 2026 performance evaluation.

Recommended motion

I move that the Commission adopt the proposed FY 2026 performance evaluation and remuneration effective November 1, as recommended by the Commissioner Evaluation Committee.

3. Commissioner Evaluation matters – Commissioner Evaluation Committee – Chair Karyn Brownlee

b. FY 2027 Commissioner performance evaluation process

Background

The Committee will make a recommendation to the Commission relating to the FY 2027 performance evaluation process.

Recommended motion

I move that the Commission adopt the performance evaluation process for FY 2027 as recommended by the Commissioner Evaluation Committee.

4. Rulemaking matters – Rules Committee – Chair David Shurtz
   a. Adoption or other action on amendments to:

      i. 7 TAC Chapter 91, Subchapter E:
         A. Section 91.501, Director Eligibility and Disqualification
         B. Section 91.502, Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures

Background

These amendments are the result of the Department's rule review process. The amendments to Section 91.501 add flexibility to the recordkeeping requirement for applications of new directors. The amendments to Section 91.502 update the title of a rule referenced in the section.

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 Sections 91.501 and 91.502 as proposed.

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).

The Credit Union Commission adopts amendments to §§91.501, Director Eligibility and Disqualification, and 91.502, Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures, without changes to the text as proposed in the August 21, 2026, issue of the *Texas Register* (51 *TexReg* 5500), and the rules will not be republished.

The 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 §91.501, Director Eligibility and Disqualification, add flexibility to the recordkeeping requirement for applications of new directors. The amendments to §91.502, Director/Committee Member Fees, Insurance, Reimbursable Expense, and Other Authorized Expenditures, update the title of a rule referenced in the section.

The reasoned justification for the amendments is accuracy and streamlined recordkeeping by credit unions.

No comments were received in response to the proposed amendments.

The amendments are adopted pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subtitle D of the Texas Finance Code, particularly §122.053, which sets forth the duties of directors, and §122.054, which directs the commission to establish qualifications for a director.

The specific sections affected by the amendments are Texas Finance Code §§122.053 and 122.054.

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

91.501. Director Eligibility and Disqualification.

(a) – (b) (No change.)

(c) Director application. Any member nominated for, or seeking election to, the board of directors shall submit a written application in such form as the credit union may prescribe. The application shall be submitted either to the nominating committee prior to its selection of nominees; or to the board chair within 30 days following the election of a member who was not nominated by the nominating committee or who was appointed by the board to fill a vacancy. The applications of the elected/appointed directors shall be incorporated into and made part of the minutes of <u>either</u> the first board meeting <u>immediately preceding</u> [~~following~~] the election/appointment of those directors <u>or the first board meeting following the election/appointment</u>. Applications of unsuccessful candidates shall be destroyed or returned upon request. The commissioner may review and require that changes be made to any application form, which is deemed inadequate or unfairly discriminates against certain classes of members.

(d) – (g) (No change.)

91.502. Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.

(a) Expense reimbursement. A credit union may reimburse out-of-pocket travel and related expenses that are reasonable and appropriate for the business activity undertaken. A credit union shall adopt a written board policy to administer and control travel expenses paid or incurred in connection with directors or committee members carrying out official credit union business.

(b) Payment of fees. Subject to the provisions of this rule, a credit union may pay a reasonable meeting fee to any of its directors, honorary directors, advisory directors, (hereafter referred to as directors) or committee members for attending duly called meetings at which appropriate credit union business is conducted. Any credit union electing to pay any type of meeting fee shall annually disclose to the membership the fees paid in the prior calendar year and scheduled to be paid in the current calendar year. This disclosure may be provided to the members as part of the credit union's annual report as prescribed in §91.310 of this title (relating to Annual Report to Membership [~~annual report to membership~~]). A credit union, however, may not pay any meeting fees to a director or committee member if the credit union is operating under a Net Worth Restoration Plan; or an order issued under Finance Code §122.257 or §122.258.

(c) – (g) (No change.)

4. Rulemaking matters – Rules Committee
   a. Adoption or other action on amendments to:

      ii. 7 TAC Chapter 91, Subchapter F:
         A. Section 91.608, Confidentiality of Member Records
         B. Section 91.610, Safe Deposit Box Facilities

Background

These amendments are the result of the Department's rule review process. The amendments to §91.608 update a reference to the federal regulations. The amendments to §91.610 update the references to the statute regarding imprinting of safe deposit keys to Chapter 125 of the Finance Code, which relates to credit unions, instead of Chapter 59, which relates to banks, and delete certain provisions that are duplicative of or in conflict with the statute.

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 Sections 91.608 and 91.610 as proposed.

The Credit Union Commission adopts amendments to §§91.608, Confidentiality of Member Records; and 91.610, Safe Deposit Box Facilities, without changes to the text as proposed in the August 21, 2026, issue of the *Texas Register* (51 *TexReg* 5502), and the rules will not be republished.

The amendments were identified as a part of the Credit Union Department's quadrennial rule review process. The amendments to §§91.608 update references to federal regulations. The amendments to §91.610 update the references to the statute regarding imprinting of safe deposit keys to Chapter 125 of the Finance Code, which relates to credit unions, instead of Chapter 59, which relates to banks, and delete certain provisions that are duplicative of or in conflict with the statute.

The reasoned justification for the amendments is accuracy and conciseness of the rules.

No comments were submitted in response to the proposed amendments.

The amendments are adopted pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code; particularly § 125.508, which establishes requirements related to imprinting of safe deposit box keys.

The specific sections affected by the amendments are Texas Finance Code §§122.053, 122.054, 122.062, 125.402, and 125.508.

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

91.608. Confidentiality of Member Records.

(a) – (b) (No change.)

(c) Privacy policy. Each credit union shall develop, implement and maintain a written policy on the protection of nonpublic personal information of individual members in its possession. This policy shall be consistent with the disclosure and reporting requirements applicable to federally insured credit unions as addressed in 12 C.F.R. part 1016 (Part 1016 of the Consumer Financial Protection Bureau regulations) [~~Part 716 of NCUA Rules and Regulations~~].

(d) (No change.)

91.610. Safe Deposit Box Facilities.

(a) Purpose. Finance Code §125.508 [~~§59.110~~] requires credit unions to imprint keys issued to safe deposit boxes with the institution's routing number. In addition, it requires a report to the Department of Public Safety if the routing number is altered or defaced so that the

correct routing number is illegible. The purpose of this section is to clarify the requirements of the noted section of the Finance Code.

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

(1) Credit union--This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

(2) Routing number--The number printed on the face of a share draft or check in fractional form or in nine-digit form that identifies a paying financial institution.

(c) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.

Attached Graphic

(d) Branch designation. A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union maintains a master list of

branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the three-digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(e) Report of defaced or altered key. A credit union that submits a report to the Department of Public Safety pursuant to Finance Code §125.508 shall retain a copy of the report for a period of three years. [~~Within 10 days after an officer or employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached Exhibit A. The report should be submitted to the Department of Public Safety, Attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Finance Code §59.110 shall require a credit union to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.~~]

(f) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Additionally, the imprinting requirement applies to all keys issued prior to September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Finance Code §125.508 [~~§59.110~~] shall be construed to require a credit union to provide notice to its safe deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Finance Code §125.508 [~~§59.110~~].

(g) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.

[~~Attached Graphic~~]

4. Rulemaking matters – Rules Committee

b. Proposal of amendments to:

i. 7 TAC Section 91.101, Definitions

Background

These amendments arose out of the Department's rule review process, although Section 91.101 is not within the subchapters currently under review. The proposed amendments would delete defined terms that are not used in Chapter 91, add definitions used in multiple sections of Chapter 91 instead of defining them within each rule in which they appear, and update certain provisions in accordance with recommendations from the Texas Regulatory Efficiency Office, which aims to reduce word count and improve efficiency of agency 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 Section 91.101 as presented.

The Credit Union Commission proposes amendments to §91.101, Definitions.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments would delete defined terms that are not used in Chapter 91, add definitions used in multiple sections of Chapter 91 instead of defining them within each rule in which they appear, and update certain provisions in accordance with recommendations from the Texas Regulatory Efficiency Office, which aims to reduce word count and improve efficiency of agency 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 of the amendments is conciseness and clarity 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 Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code.

STATUTORY SECTIONS AFFECTED. The specific section affected by the amendments is Texas Finance Code §§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.

91.101 Definitions and Interpretations

(a) Words and terms used in this title [~~chapter~~] that are defined in the Act [~~Finance Code §121.002,~~] have the same meanings as defined in the Act, unless the context clearly indicates otherwise [~~Finance Code~~]. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--the Texas Credit Union Act (Texas Finance Code, Subtitle D).

(2) Allowance for loan and lease losses (ALLL)--a general valuation allowance that has been established through charges against earnings to absorb losses on loans and lease financing receivables. An ALLL excludes the regular reserve and special reserves.

(3) Applicant--an individual or credit union that has submitted an application to the commissioner.

(4) Application--a written request filed by an applicant with the department seeking approval to engage in various credit union activities, transactions, and operations or to obtain other relief for which the commission is authorized by the act to issue a final decision or order subject to judicial review.

(5) Appraisal--a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of a specifically described asset as of a specific date, supported by the presentation and analysis of relevant market information.

(6) Automated teller machine (ATM)--an automated, unstaffed credit union facility owned by or operated exclusively for the credit union at which deposits are received, cash dispensed, or money lent.

(7) Community of interest--a unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union. The types of community of interest currently recognized are:

(A) Occupational--based on an employment relationship that may be established by:

(i) employment (or a long-term) contractual relationship equivalent to employment) by a single employer, affiliated employers or employers under common ownership with at least a 10% ownership interest;

(ii) employment or attendance at a school; or

(iii) employment in the same trade, industry or profession (TIP) with a close nexus and narrow commonality of interest, which is geographically limited.

(B) Associational--based on groups consisting primarily of natural persons whose members participate in activities developing common loyalties, mutual benefits, or mutual interests. In determining whether a group has an associational community of interest, the commissioner shall consider the totality of the circumstances, which include:

(i) whether the members pay dues;

(ii) whether the members participate in furtherance of the goals of the association;

(iii) whether the members have voting rights;

(iv) whether there is a membership list;

(v) whether the association sponsors activities;

(vi) what the association's membership eligibility requirements are; and

(vii) the frequency of meetings. Associations formed primarily to qualify for credit union membership and associations based on client or customer relationships, do not have a sufficient associational community of interest.

(C) Geographic--based on a clearly defined and specific geographic area where persons have common interests and/or interact. More than one credit union may share the same geographic community of interest. There are currently four types of affinity on which a geographic community of interest can be based: persons, who:

(i) live in;

(ii) worship in;

(iii) attend school in; or

(iv) work in that community. The geographic community of interest requirements are met if the area to be served is in a recognized single political subdivision, as defined in this rule.

(D) Other--The commissioner may authorize other types of community of interest, if the commissioner determines that either a credit union or foreign credit union has sufficiently demonstrated that a proposed factor creates an identifiable affinity among the persons within the proposed group. Such a factor shall be well-defined, have a geographic definition, and may not circumvent any limitation or restriction imposed on one of the other enumerated types.

(8) Credit [~~A credit~~] union service organization (CUSO)--an organization authorized by §91.801 (relating to Investments in Credit Union Service Organizations). A consolidated CUSO is one where control or ownership by a credit union requires consolidation of the credit union and CUSO financial statements to comply with Generally Accepted Accounting Principles.

(9) Day--whenever periods of time are specified in this title in days, calendar days are intended. When the day, or the last day fixed by statute or under this title for taking any action falls on Saturday, Sunday, or a state holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a state holiday.

(10) Department newsletter--the monthly publication that serves as an official notice of all applications, and by which procedures to protest applications are described.

(11) Extension of credit -- a direct or indirect advance of funds to or on behalf of a member based on an obligation of the member to repay the funds or repayable from the application of the specific property pledged by or on behalf of the member. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member, an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.

(12)[~~(11)~~] Field of membership (FOM)--refers to the totality of persons a credit union may accept as members. The FOM may consist of one group, several groups with a related community of interest, or several unrelated groups with each having its own community of interest.

[~~(12) Finance Code or Texas Finance Code--the codification of the Texas statutes governing financial institutions, financial businesses, and related financial services, including the regulations and supervision of credit unions.~~]

(13) Immediate family member – a person's spouse or any other relative living in the same household.

[~~(13) Imminent danger of insolvency--a circumstance or condition in which a credit union is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, even if the value of its assets exceeds its liabilities; or the credit union has a positive net worth ratio equal to two percent or less of its assets.~~

~~(14) Improved residential property--residential real estate containing on-site, offsite or other improvements sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.~~

(14)[~~(15)~~] Interactive teller machine [~~(ITM)~~]--a video-based interactive technology which allows members to conduct transactions and credit union services driven by a centrally based teller, in a real time video or audio interaction.

(15)[~~(16)~~] Indirect financing--a program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

[~~(17) Loan and extension of credit --a direct or indirect advance of funds to or on behalf of a member based on an obligation of the member to repay the funds or repayable from the application of the specific property pledged by or on behalf of the member. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member, an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.~~]

(16)[~~(18)~~] Loan-to-value ratio--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 value of the collateral.

(17)[~~(19)~~] Manufactured home--a HUD-code manufactured home as defined by the Texas Manufactured Housing Standards Act. The terminology may also include a mobile home, house trailer, or similar recreational vehicle if the unit will be used as the member's residence and the loan is secured by a first lien on the unit, and the unit meets the requirements for the home mortgage interest deduction under the Internal Revenue Code (26 U.S.C. Section 163(a), (h)(2)(D)).

(18)[~~(20)~~] Market Value--the most probable price which an asset should bring in a competitive and open market under an arm's-length sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of ownership from seller to buyer where:

(A) Buyer and seller are typically motivated;

(B) Both parties are well informed or well advised, and acting in their own best interests;

(C) A reasonable time is allowed for exposure in the open market;

(D) Payment is made in cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(E) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(19)[~~(21)~~] Metropolitan Statistical Area (MSA)--a geographic area as defined by the director of the U.S. Office of Management and Budget.

(20)[~~(22)~~] Mobile office--a branch office that does not have a single, permanent site, including a vehicle that travels to various public locations to enable members to conduct their credit union business.

(21)[~~(23)~~] Office--includes any service facility or place of business established by a credit union at which deposits are received, checks or share drafts paid, or money lent. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned interactive teller machine [~~ITM~~] or other electronic facility that meets, at a minimum, these requirements; however, it does not include the credit union's Internet website. This definition also includes a shared branch or a shared branch network if either:

(A) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or

(B) the service facility is local to the credit union and the credit union is an authorized participant in the service center.

(22)[~~(24)~~] Overlap--the situation which exists when a group of persons is eligible for membership in two or more state, foreign, or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

[~~(25) Pecuniary interest--the opportunity, directly or indirectly, to make money on or share in any profit or benefit derived from a transaction.~~]

(23)[~~(26)~~] Person--an individual, partnership, corporation, association, government, governmental subdivision or agency, business trust, estate, trust, or any other public or private entity.

(24)[~~(27)~~] Political Subdivision--a county, municipality, special district, school district, junior college district, housing authority, or other political subdivision of this state or any other state.

(25)[~~(28)~~] Principal office--the home office of a credit union.

(26)[~~(29)~~] Protestant--a credit union that opposes or objects to the relief requested by an applicant.

(27)[~~(30)~~] Real estate or real property--an identified parcel or tract of land. The term includes improvements, easements, rights of way, undivided or future interest and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

[~~(31) Remote service facility--an automated, unstaffed credit union facility owned or operated by, or operated for, the credit union, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.~~]

(28)[~~(32)~~] Reserves--allocations of retained earnings including regular and special reserves, except for any allowances for loan, lease or investment losses.

[~~(33) Resident of this state--a person physically located in, living in or employed in the state of Texas.~~]

(29)[~~(34)~~] Respondent--a credit union or other person against whom a disciplinary proceeding is directed by the department.

[~~(35) Secured credit--a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.~~]

(30) Secured creditor – a creditor that has made a loan or given an extension of credit upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property, real property, or a combination thereof.

(31) Senior management employee – the chief executive officer, any assistant chief executive officers (vice presidents and above), and the chief financial officer.

(32)[~~(36)~~] Shared service center--a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit

union services that the credit union member could lawfully obtain at the principal office of the member's credit union.

(33)[~~(37)~~] TAC--an acronym for the Texas Administrative Code, a compilation of all state agency rules in Texas.

(34)[~~(38)~~] This title [~~Title or 7 TAC~~]--Title 7, Part 6 [~~VI~~] of the Texas Administrative Code [~~Banking and Securities~~], which contains all of the department's rules.

(35)[~~(39)~~] Underserved area--a geographic area, which could be described as one or more contiguous metropolitan statistical areas (MSA) or one or more contiguous political subdivisions, including counties, cities, and towns, that satisfy any one of the following criteria:

(A) A majority of the residents earn less than 80 percent of the average for all wage earners as established by the U. S. Bureau of Labor Statistics;

(B) The annual household income for a majority of the residents falls at or below 80 percent of the median household income for the State of Texas, or the nation, whichever is higher; or

(C) The commission makes a determination that the lack of available or adequate financial services has adversely affected economic development within the specified area.

(36)[~~(40)~~] Uninsured membership share--funds paid into a credit union by a member that constitute uninsured capital under conditions established by the credit union and agreed to by the member including possible reduction under §122.105 of the act, risk of loss through operations, or other forfeiture. Such funds shall be considered an interest in the capital of the credit union upon liquidation, merger, or conversion.

(37)[~~(41)~~] Unsecured [~~credit~~]--a loan or extension of credit is unsecured when it is based solely upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

(b) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in the Act and in Government Code §2001.003, and the definitions in subsection (a) of this section govern the interpretation of this title. If any section of this title is found to conflict with an applicable and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict without affecting the validity of the rest of this title.

4. Rulemaking matters – Rules Committee

b. Proposal of amendments to:

ii. 7 TAC Section 91.601, Share and Deposit Accounts

Background

The proposed amendments were developed as a part of the Credit Union Department's quadrennial rule review process in response to a comment received from a member of the public that the requirement of a disclosure that nonmember deposits are not insured was inaccurate in many cases, as certain nonmember deposits are in fact insured.

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 91.601 as presented.

The Credit Union Commission proposes amendments to §91.601, Share and Deposit Accounts.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments were developed as a part of the Credit Union Department's quadrennial rule review process in response to a comment received from a member of the public that the requirement of a disclosure that nonmember deposits are not insured was inaccurate in many cases, as certain nonmember deposits are in fact insured.

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 of the amendments is accuracy of the rules and the ability of Texas-chartered credit unions to compete with other credit unions for nonmember deposits. 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 Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code; particularly §123.201, which addresses credit unions' power to borrow or lend.

STATUTORY SECTIONS AFFECTED. The specific section affected by the amendments is Texas Finance Code §123.201.

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

91.601 Share and Deposit Accounts

(a) Accounts. A credit union may offer any type of share or deposit accounts and prescribe the terms and conditions relating to the accounts as established by written policies approved by the board of directors.

(b) Policies and procedures. Each credit union, before accepting any funds for any share or deposit accounts, shall adopt, implement and maintain appropriate policies and procedures which address, at a minimum, asset liability management and adequate liquidity levels.

(c) Nonmember deposits. A credit union may accept deposits from nonmembers as authorized by the Act. A deposit from a nonmember financial institution is subject to the limitations prescribed by §123.201(b) of the Act.

[~~(c) Limitation on deposit accounts. Acceptance of funds from a depositor authorized by the Act that is not within the credit union's field of membership is subject to the limitations prescribed by §123.201(b) of the Act. This restriction does not apply to a credit union accepting for deposit the money of:~~

~~(1) the United States or any agent or instrumentality of the United States;~~

~~(2) this or another state; or~~

~~(3) a political subdivision of this or another state.~~

~~(d) Nonmember deposit. The written documentation evidencing a deposit under subsection (c) of this section shall clearly and conspicuously disclose that the funds are not insured. This section does not apply to insured deposits from other credit unions or deposits received by a credit union with a low-income designation.~~]

4. Rulemaking matters – Rules Committee
   b. Proposal of amendments to:

      iii. 7 TAC Chapter 91, Subchapter H:
         A. Section 91.801, Investments in Credit Union Service Organizations
         B. Section 91.802, Other Investments
         C. Section 91.803, Investment Limits and Prohibitions
         D. Section 91.805, Loan Participation Investments
         E. Section 91.809, Purchase of Assets and Assumption of Liabilities

Background

The proposed amendments were identified as a part of the Credit Union Department's quadrennial rule review process. The amendments standardize references to federal law, conform certain terms to the definitions proposed to be incorporated into Section 91.101 elsewhere in this issue, and make other non-substantive changes for readability and consistency.

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 91.801, 91.802, 91.803, 91.805, and 91.809 as presented.

The Credit Union Commission proposes amendments to §§91.801, Investments in Credit Union Service Organizations; 91.802, Other Investments; 91.803, Investment Limits and Prohibitions; 91.805, Loan Participation Investments; and 91.809, Purchase of Assets and Assumption of Liabilities.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments were identified as a part of the Credit Union Department's quadrennial rule review process. The amendments standardize references to federal law, conform certain terms to the definitions proposed to be incorporated into Section 91.101 elsewhere in this issue, and make other non-substantive changes for readability and consistency.

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 of the amendments is accuracy and consistency 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 Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code.

STATUTORY SECTIONS AFFECTED. The specific section affected by the amendments is Texas Finance Code §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.

91.801 Investments in Credit Union Service Organizations

(a) - (d) (No change.)

(e) Prohibitions. No credit union may invest in or make loans to a CUSO:

(1) if any officer, director, committee member, or employee of the credit union or any [~~member of the~~] immediate family member of such persons owns or makes an investment in or has made or makes a loan to the CUSO;

(2) – (8) (No change.)

(f) (No change.)

(g) Compensation. A credit union director, senior management employee, or committee member or immediate family member of any such person may not receive any salary, commission, or other income or compensation, either directly or indirectly, from a CUSO affiliated with their credit union, unless received in accordance with a written agreement between the CUSO and the credit union. The agreement shall describe the services to be performed, the rate of compensation (or a description of the method of determining the amount of compensation) and any other provisions deemed desirable by the CUSO and the credit union. The agreement, and any amendments, must be approved by the board of directors of the credit union and the board of directors (or equivalent governing body) of the CUSO prior to any performance of service or payment and annually thereafter. [~~For purposes of this section, senior management employee shall include the chief executive officer, any assistant chief executive officers (vice presidents and above), and the chief financial officer. Immediate family shall include a person's spouse or any other person living in the same household.~~]

(h) – (j) (No change.)

91.802 Other Investments

(a) Definitions. Unless the context clearly indicates otherwise, these words and terms, when used in this section, shall have the following meanings. Any technical words, terms, or phrases that are not specifically defined in this section shall be construed in a manner consistent with the Texas Code [~~of~~] Construction Act (Tex. Govt. Code Chapter 311). [~~*(Tex. Govt. Code §311.001).*~~]

(1) – (11) (No change.)

(12) Mortgage related security--A security meeting [~~which meets~~] the definition of mortgage related security in 15 U.S.C. § 78c(a)(41). [~~United States Code Annotated, Title 15, §78c(a)(41).~~]

(13) Nationally recognized statistical rating organization (NRSRO)--A rating organization such as Standard and Poor's, Moody's, or Fitch which is recognized by the Securities and Exchange Commission.

(14) – (16) (No change.)

(17) Small business-related security [~~securities~~] -- [~~Is~~] a security as defined in [~~Section 3(a)(53) of the Securities Exchange Act of 1934 (~~]15 U.S.C. 78c(a)(53). This definition does not include Small Business Administration securities permissible under 12 U.S.C. 1757 [~~section 107(7) of the Federal Credit Union Act~~].

(18) – (19) (No change.)

(b) (No change.)

(c) Authorized activities.

(1) – (16) (No change.)

(17) Derivative authority. A credit union may enter into certain derivative transactions exclusively for the purpose of decreasing interest rate risk. The transaction is used to manage risk arising from otherwise permissible credit union activities and not entered into for speculative purposes. Permissible derivatives include interest rate swaps, options on swaps, interest rate caps, interest rate floors, and Treasury futures. Derivative authority is restricted to the provisions outlined under 12 C.F.R. Part 703, Subpart B [~~of Part 703 of the National Credit Union Administration Rules and Regulations~~].

(d) – (j) (No change.)

91.803 Investment Limits and Prohibitions

(a) – (b) (No change.)

(c) Prohibited Activities.

(1) Definitions.

(A) (No change.)

(B) CMO – collateralized mortgage obligation, [~~Collateralized mortgage obligation (CMO)--~~] a multi-class bond issue collateralized by mortgages or mortgage-backed securities.

(C) – (E) (No change.)

(E) REMIC – real estate mortgage investment conduit, [~~Real estate mortgage investment conduit (REMIC) --~~] a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

(F) – (I) (No change.)

(2) A credit union may not:

(A) – (J) (No change.)

(K) Purchase exchangeable mortgage backed securities, unless they are fully compliant with the provisions outlined in 12 C.F.R. Part 703 [~~of the National Credit Union Administration Rules and Regulations~~]; or

(L) (No change.)

(d) (No change.)

91.805 Loan Participation Investments

(a) A credit union may purchase a participation interest in a loan, where the borrower is neither a member of the credit union or a member of another participating credit union, as permitted by §124.351(a)(8) of the Texas Finance Code, provided the following conditions are satisfied:

(1) – (2) (No change.)

(3) the purchase complies with the credit union's investment policy, which, at a minimum, must:

(A) establish the same degree of independent credit and collateral analysis as if the credit union was the originator; and

(B) establish commitment limits for aggregate purchased participations, out-of-area participations, and loans originated by individual lead institutions; and [~~.~~]

(4) the written loan participation agreement fully describes the lead institution's responsibilities, establishes requirements for obtaining timely borrower credit information, addresses remedies upon default, and outlines dispute resolution procedures.

(b) (No change.)

(c) Other Requirements. A credit union purchasing a loan participation investment must also comply with applicable requirements contained within 12 C.F.R Part 741 [~~of the National Credit Union Administration Rules and Regulations~~].

91.809 Purchase of Assets and Assumption of Liabilities

(a) – (b) (No change.)

(c) A credit union seeking approval under subsection (a) of this section must submit a letter application to the commissioner stating the nature of the transaction and describing the proposed program. The application must include:

(1) – (3) (No change.)

(4) Proposed policies under which the program will operate, and which must comply with the requirements outlined in §§91.802(b), 91.803 and 91.808 (relating to Other Investments; Investment Limits and Prohibitions; and Reporting Investment Activities to the Board of Directors [~~Loan Participation Investments~~]);

(5) (No change.)

(6) Evidence of requested approval by NCUA under [~~NCUA regulations~~] 12 C.F.R. §741.8, if federally insured, or bond covenants from American Share Insurance if necessary;

(7) – (8) (No change.)

(d) A federally insured credit union purchasing assets or assuming liabilities of another entity must also comply with applicable requirements contained within [~~the NCUA regulations~~] 12 C.F.R. Part 741.

(e) (No change.)

4. Rulemaking matters – Rules Committee

b. Proposal of amendments to:

iv. 7 TAC Section 91.902, Dividends

Background

The proposed amendments, identified as part of the Department's four-year rule review process, would separate subsection (b)(1) into two parts and clarify the requirements of subsection (b)(3) (to be renumbered as (b)(4)).

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 91.902 as presented.

The Credit Union Commission proposes amendments to §91.902, Dividends.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES. The proposed amendments, identified as part of the Department's four-year rule review process, would separate subsection (b)(1) into two parts and clarify the requirements of subsection (b)(3) (to be renumbered as (b)(4)).

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 rule as amended will be in effect, the rule will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the 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 rule is not "major environmental rules" 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 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 rule is in effect, the public benefit of the amendments is clarity of the rule. 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 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 rule, 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 Title 2, Chapter 15 and Title 3, Subtitle D (Chapters 121 through 149) of the Texas Finance Code.

STATUTORY SECTIONS AFFECTED. The specific section affected by the amendments is Texas Finance Code §§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.

91.902 Dividends

(a) Dividend eligibility shall be prescribed by written board policy.

(b) When a credit union is subject to a cease and desist order or is otherwise notified that it is deemed to be in a troubled condition or engaged in an unsafe practice, the credit union

must obtain prior written approval of the commissioner before it declares or pays any dividend or interest refund. A request for approval to pay a dividend or interest refund under this section must be in writing and must include the following supporting information:

(1) the proposed dividend and/or interest refund rate; [~~and~~]

(2) the estimated total dollar amount of payment;

(3) [~~(2)~~] an analysis of the credit union's ability to make the payment from current earnings without incurring an operating loss for the period; and

(4) [~~(3)~~] an explanation of the progress in resolving the areas of concern detailed in the cease and desist order or the examination findings detailed in [~~examiner's findings schedule of~~] the most recent report of examination.

4. Rulemaking matters – Rules Committee

c. Adoption of Rule Review and readoption of rules in 7 TAC Chapter 91, Subchapters H & I

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 September 25, 2026, issue of the *Texas Register*. No comments were received in response to this publication. 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, Subchapters H and I continue to exist and readopt the rules in these subchapters.

Title 7, Part 6

The Texas Credit Union Commission (Commission) adopts the review of Texas Administrative Code Title 7, Part 6, Chapter 91, Subchapters H (Investments) and Subchapter I (Reserves and Dividends).

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapters H and I was published in the September 25, 2026, issue of the *Texas Register* (51 TexReg 6755). The Credit Union Department received no comments in response to the review of these subchapters.

After reviewing these rules, the Commission determined that the reasons for initially adopting these rules continue to exist and readopts Chapter 91, Subchapters H and I in their entirety in accordance with the requirements of Texas Government Code § 2001.039. However, the Commission has determined that certain sections of these subchapters should be amended and is proposing those changes elsewhere in this issue of the *Texas Register*. This concludes the review of Texas Administrative Code Title 7, Part 6, Chapter 91, Subchapters H and I.

5. Pending litigation:
    a. Discussion and possible action on motion for rehearing in Cooperative Teachers Credit Union v. Credit Union Department, State Office of Administrative Hearings Docket No. 469-23-07487

Background

Devon Bijansky will present this item.

At its August 2026 meeting, the Commission issued an order modifying the proposal for decision (PFD) from the State Office of Administrative Hearings (SOAH) and denying the bylaw amendment for field of membership expansion requested by Cooperative Teachers Credit Union (CTCU).

On September 1, CTCU filed a motion for rehearing with the Department.

On September 10, the Commissioner issued an order extending the deadline for the Commission to take action on the motion until November 13.

Recommended motion

I move that Cooperative Teachers Credit Union's motion for rehearing be [granted/denied].

COOPERATIVE TEACHERS CREDIT UNION,	§	**BEFORE THE**
Petitioner,	§	
v.	§	**CREDIT UNION COMMISSION**
TEXAS CREDIT UNION DEPARTMENT,	§	
Respondent.	§	**SOAH DOCKET NO. 469-23-07487.CUD** **CUD NO. 22-033-01**

COOPERATIVE TEACHERS CREDIT UNION'S MOTION FOR REHEARING

TO THE CREDIT UNION COMMISSION:

Cooperative Teachers Credit Union ("CTCU"), through its authorized representative under 7 Texas Administrative Code § 93.213, timely moves for rehearing of the Credit Union Commission's Final Order signed August 7, 2026 (the "Order"). This motion identifies with particularity the findings, conclusions, explanations, and disposition challenged, and states the legal and record basis for each complaint. *See* Tex. Gov't Code §§ 2001.145(a), .146(a), (g). Appendix A is incorporated into each ground below.

I. INTRODUCTION AND SUMMARY

After a contested-case hearing and full briefing, the Administrative Law Judge ("ALJ") recommended approval of CTCU's application without modification. The Commission adopted the Proposal for Decision ("PFD") but changed Findings of Fact 11, 12, 16, 19, and 20; changed Conclusions of Law 5.a, 5.b, and 7–9; added Conclusion of Law 10; and denied the application in Conclusion of Law 11. CTCU does not contend that every modification is categorically beyond the Commission's authority. It challenges the specific legal standards, evidentiary universe, and explanations used to make these outcome-determinative changes.

Three errors are central and warrant rehearing. First, the Commission's own rule says its decision must be based on testimony and other evidence in the hearing record. 7 Tex. Admin. Code § 93.602. The Order's opening recital says the Commission reviewed that record, yet each disputed finding is framed as a failure to prove a matter "in its application," and new Conclusion 10 rests on a "lack of evidence in the application." If the Commission confined its review to the 2022 application, it applied the wrong evidentiary standard. If it considered the complete record, the operative findings and explanations do not disclose why the substantial hearing evidence failed.

Second, the stated basis for reversing Findings 19 and 20 is that the ALJ misapplied burden-of-proof rules, 7 Texas Administrative Code § 93.303(b)–(c) and 1 Texas Administrative Code § 155.427. But the ALJ expressly stated the preponderance standard and assigned the burden to CTCU, and the Order itself says she "correctly noted" that burden. The Order does not identify what word of either rule the ALJ misread, why her application of the rule was legally incorrect, or how the opposite ultimate findings follow from the adopted basic facts. That is the explanatory defect *Hyundai Motor America v. New World Car Nissan, Inc.* held insufficient under Texas Government Code § 2001.058(e). 581 S.W.3d 831, 837–42 (Tex. App.—Austin 2019, no pet.).

Third, the Order appears to treat three criteria not found in the promulgated rule as decisive: service responsive to every eligible person or every service preference; member protections newly created for the expansion rather than existing protections that scale to new members; and a present commitment to construct physical branches. The Commission may weigh the statutory and regulatory considerations and draw ultimate inferences within its expertise. *Subaru of America, Inc. v. Board of the Texas Department of Motor Vehicles*, No. 03-23-00415-CV, slip op. at 3–4, 22–31 (Tex. App.—Austin July 18, 2025) (mem. op.). But it must apply the rule as written, use the hearing record, and explain the factual and legal path to its contrary result.

CTCU's primary request is that the Commission grant rehearing, withdraw the challenged changes, adopt the PFD, and approve the application. Alternatively, the Commission should issue a new decision on the complete record, make the determinations required by Texas Finance Code §§ 122.006 and 122.011 with reasonable specificity, and supply a compliant explanation for any departure from the PFD. Only if the Commission concludes that the existing record is insufficient on the facilities component of § 91.301(g)(5), CTCU requests a limited remand or reopening under § 93.602 rather than an application-only denial.

II. TIMELINESS, PRESERVATION, AND GOVERNING STANDARDS

A. The motion is timely.

The Order was signed August 7, 2026. The twenty-fifth day after signature is September 1, 2026. This motion is therefore timely under Texas Government Code § 2001.146(a). The Commission's rule incorporates the APA's rehearing procedures and deadlines. 7 Tex. Admin. Code § 93.604.

B. Section 2001.058(e) requires a particularized reason and legal basis for each change.

Under § 2001.058(e), an agency may change an ALJ finding or conclusion only if it determines that the ALJ did not properly apply or interpret applicable law, agency rules, qualifying written policies, or prior administrative decisions; that a prior administrative decision relied on is incorrect or should change; or that a technical error should be corrected. The agency must state in writing the "specific reason and legal basis" for each change. 7 Tex. Admin. Code § 93.212(c) expressly incorporates that standard.

Hyundai requires the agency to explain with particularity which law was misapplied, why the ALJ's application was incorrect, how the opposite determination follows from the adopted facts, and the rational connection between the change and an underlying agency policy. 581 S.W.3d at 837–42. *Subaru* clarifies that an agency with final decision authority may reweigh statutory factors and make ultimate findings, but it may not replace basic facts with its own, use expertise as a substitute for evidence, or omit the factual bases and legal rationale for the changed result. Slip op. at 3–4, 22–31. CTCU frames its § 2001.058 complaints within those limits.

C. The Commission must decide from the hearing record, and legal questions receive de novo review.

Section 93.602 is direct: "Decisions by the Commission must be based on testimony and other evidence in the hearing record." It also authorizes the Commission to adopt or decline to adopt the Commissioner's decision or the PFD, remand with or without reopening, and take other lawful action. Section 93.303(a) likewise directs consideration of the governing statutes, rules, and

policies together with the testimony and documentary evidence presented at hearing. Texas Finance Code § 122.006(a)(2), incorporated into amendment decisions by § 122.011(c), requires the relevant determinations to be made from information furnished with the application, investigation results, hearing evidence, and Department records, not the application alone.

A final order must separately state findings and conclusions, and its fact findings may rest only on evidence or officially noticed matters. Tex. Gov't Code § 2001.141(b)–(c). The APA's special requirement for underlying facts applies by its text when findings are stated in statutory language. *Id.* § 2001.141(d). CTCU does not enlarge that subsection to every finding that tracks a rule. It relies instead on § 2001.058(e), § 93.602, § 2001.141(b)–(c), and the reviewability principles in *Hyundai* and *Goeke v. Houston Lighting & Power Co.*, 797 S.W.2d 12, 15 (Tex. 1990), to require a discernible factual and legal path.

On judicial review, a court reviews all questions of law de novo and owes no deference to an agency's legal determination. Tex. Gov't Code § 2001.1721. The meaning of former § 91.101(a)(7)(C), the scope of § 91.301(g), and whether the Commission used a lawful evidentiary standard are therefore preserved as legal questions.

D. Particularity and preservation.

A timely and sufficiently specific motion for rehearing is a prerequisite to judicial review. Tex. Gov't Code §§ 2001.145(a), .146(g). CTCU asserts each ground below independently under § 2001.174(2)(A)–(F). The organization of this motion does not waive a ground, and Appendix A maps every challenged determination to the corresponding complaint.

III. GROUNDS FOR REHEARING

A. The operative findings and explanations conflict with the whole-record command in § 93.602.

Determinations challenged: Findings of Fact 11, 16, 19, and 20; Conclusions of Law 5.b and 7–11; the related Explanations of Changes; and the denial.

The Order begins by reciting that the Commission reviewed "the record of the proceedings before" SOAH. Order at 1. Yet its operative language repeatedly narrows the proof to the application: Finding 11 says CTCU "did not establish in its application" a unifying community; Finding 16 uses the same phrase for responsive service; Findings 19 and 20 use it for member protection and economic progress; and the explanations repeat that the "Application did not address" service, that "[i]n its Application CTCU did not provide any evidence" of member protection, and that "in the Application" CTCU mentioned targeted marketing. Order at 3–6. New Conclusion 10 likewise rests on an asserted "lack of evidence in the application." *Id.* at 8.

That formulation cannot be reconciled with § 93.602 if it means what it says. The hearing record includes the application, investigation materials, CTCU exhibits, Department exhibits, sworn testimony, supplemental exhibits admitted by SOAH Order No. 8, and post-hearing briefs. PFD at 4–5. The record contains the service-channel, staffing, financial, growth, member-protection, and economic-progress evidence addressed below. Section 93.602 requires the Commission's decision to be based on that testimony and evidence; § 122.006(a)(2) expressly includes hearing evidence and official records in the decisional universe.

CTCU recognizes the possibility that "in its application" was shorthand and that the Commission actually weighed the full record. But that reading creates the alternative defect: the Order does not explain why the identified hearing evidence was unpersuasive, how the changed ultimate findings follow from the retained facts, or whether the Commission rejected any basic fact. A general recital of record review cannot resolve an ambiguity created by the findings and explanations that do the decisional work.

Rehearing should be granted so the Commission can remove the application-only limitation and decide from the record as § 93.602 requires. If the Commission intended a whole-record decision, it should say so expressly and explain, for each disputed criterion, why the cited evidence fails. The existing Order is affected by error of law and unlawful procedure and prevents meaningful substantial-evidence review. Tex. Gov't Code § 2001.174(2)(C)–(E).

B. The stated § 2001.058(e) basis for reversing Findings 19 and 20 and Conclusions 8 and 9 is inadequate.

Determinations challenged: Findings of Fact 19 and 20; Conclusions of Law 8, 9, and 11; the related Explanations of Changes; and the denial.

The Order changes Findings 19 and 20 under § 2001.058(e)(1) because the ALJ allegedly "did not properly apply or interpret" 7 Texas Administrative Code § 93.303(b)–(c) and 1 Texas Administrative Code § 155.427. Order at 5–6. The explanations for Conclusions 8 and 9 repeat those rules and say, "[a]s the ALJ correctly noted," CTCU bears the burden by a preponderance and did not satisfy it. *Id.* at 7–8.

The ALJ's Conclusion 4 states: "Applicant CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence. 7 Tex. Admin. Code § 93.303(b); 1 Tex. Admin. Code § 155.427." PFD at 23; *see also id.* at 4. Thus, the Order does not identify a mistaken burden allocation or standard. Nor does it explain the invocation of § 93.303(c), which addresses protested applications, when no credit-union protestant appeared. At most, the explanations say the Commission assigned different weight to the evidence.

A changed ultimate finding may rest on different weighing, but § 2001.058(e) still requires the Commission to identify the law allegedly misapplied, why the ALJ's application was wrong, and how the opposite result follows from the accepted facts and agency policy. *Hyundai*, 581 S.W.3d at 839–42. In *Subaru*, the changed outcome survived because the Board identified the adopted basic facts, explained the inferences it drew, and stated why particular factors outweighed others. Slip op. at 29–31. Here, the Order cites a burden rule that all agree the ALJ stated correctly, then announces the opposite result without a comparable reasoning path.

The problem is not cured by the Order's short evidence characterizations. For Finding 19 it says CTCU "merely" listed existing protections. For Finding 20 it relies on the absence of planned physical facilities and calls the economic-progress statements unsupported. Order at 5–6. Those statements neither identify a legal misapplication of § 93.303 or § 155.427 nor address the record evidence catalogued below. Findings 19 and 20 and Conclusions 8 and 9 should be reinstated or reconsidered under a compliant explanation.

C. Finding 19 applies an extra-textual novelty requirement and does not engage the record on member protection.

Determinations challenged: Finding of Fact 19; Conclusions of Law 8, 10, and 11; the related Explanations of Changes; and the denial.

Section 91.301(g)(4) requires consideration of "[p]rotection for the interest of current and future members." The Order discounts CTCU's evidence because it consists of deposit insurance, policies, and compliance measures "already in place that would also apply to future members." Order at 5. The rule contains no requirement that protective measures be newly invented for the expansion. Existing controls, insurance, underwriting, capital, and staffing are probative precisely because they will govern future accounts and can be evaluated from actual operations.

The whole record supplied more than a list. Among other evidence:

- CTCU is well capitalized under the applicable NCUA standard, a fact the Commission retained without qualification. Order, Finding 15; PFD at 18–19.
- Tim Miller explained that a broader membership base would add deposits and qualified borrowers, increase lending revenue and net worth, and support CTCU's long-term stability. Pet. Ex. 8 at 25:7–20 (CTCU EX 8-000025).
- He tied growth to NCUA employee-to-member benchmarks and testified that CTCU would add staff as membership increased. Pet. Ex. 8 at 12:10–17, 27:8–17 (CTCU EX 8-000012, -000027).
- He described a measured, targeted rollout rather than indiscriminate statewide solicitation. Pet. Ex. 8 at 32:1–33:24 (CTCU EX 8-000032–33).
- He explained that expansion would give Texans additional financial choices and support a thriving, member-owned institution able to serve current and future members for another seventy years. Pet. Ex. 8 at 68:22–69:5 (CTCU EX 8-000068–69).
- The PFD found that expansion would enhance CTCU's financial stability and long-term safety and soundness and that the field's character and size favor economic viability. PFD at 20 & nn.54–55; see id. At 20 n. 55 (citing Tex. Fin. Code § 122.006(a)(2)(B)).

The Commission may find that evidence insufficient; CTCU does not ask it to surrender its ultimate-fact role. But the explanation must disclose why proven, scalable safeguards and the retained well-capitalized finding do not protect current and future members, what lawful criterion the evidence fails, and how the contrary finding follows. Discounting safeguards solely because they already exist adds a novelty condition absent from § 91.301(g)(4) and creates no rational connection between the rule and Finding 19.

D. Finding 20 treats a present physical-branch commitment as indispensable even though § 91.301(g)(5) is forward-looking and recognizes nonbranch facilities.

Determinations challenged: Finding of Fact 20; Conclusions of Law 9, 10, and 11; the related Explanations of Changes; and the denial.

Section 91.301(g)(5) asks whether the proposal encourages economic progress "by allowing opportunity to expand services and facilities." CTCU acknowledges that "services and facilities" is conjunctive. Proof of expanded services alone does not erase the facilities term. But the rule speaks of an opportunity to expand; it does not require a present promise to construct staffed branches in every geographic community.

The Department's rules also do not equate "facility" with "branch." Former § 91.101(a)(30), as codified when CTCU filed, defines a "remote service facility" as an automated, unstaffed facility owned or operated by, or operated for, a credit union, including an ATM, cash-dispensing machine, point-of-sale terminal, or other qualifying remote electronic facility. The Commission retained Finding 10 that CTCU serves through a website, mobile banking, a physical branch, and a nationwide ATM network. It also retained Findings 13 and 14 concerning statewide demand for digital services and CTCU's planned remote account management, mobile applications, online loan and account applications, and conversational artificial intelligence.

The hearing evidence made those retained findings concrete:

- CTCU participates in the CO-OP network, which Mr. Miller testified included approximately 1,900 ATMs in Texas and provided an online locator. Pet. Ex. 8 at 46:2–20, 51:1–21 (CTCU EX 8-000046, -000051).
- Members can obtain cash through that network and conduct transactions through telephone support, IVR available around the clock, postal communications, and mailed cashier's checks. Pet. Ex. 8 at 13:15–14:19, 48:2–50:4 (CTCU EX 8-000013–14, -000048–50).
- CTCU's mobile application and support infrastructure provide balance inquiries, remote deposits, internal and external transfers, person-to-person payments, loan payments, additional accounts, and employee technical assistance. Pet. Ex. 8 at 10:2–11:22 (CTCU EX 8-000010–11).
- The proposed expansion would extend those services and remote-facility access statewide, including to rural consumers, through a targeted digital strategy. Pet. Ex. 8 at 32:15–34:18 (CTCU EX 8-000032–34).

The record also contains adverse facts: CTCU did not plan statewide staffed branches, Mr. Miller could not confirm a participating ATM in every county, and some in-person services would require travel. Pet. Ex. 8 at 12:18–13:1, 50:13–24, 70:17–71:11 (CTCU EX 8-000012–13, -000050, -000070–71). Those facts may affect weight. They do not establish as a matter of law that no opportunity to expand facilities exists, particularly when the rules define remote facilities and the Commission retained CTCU's nationwide network.

The 2021 amendment to § 91.301 removed the former local-service-area and physical-office proximity structure and expressly recognized digital delivery in field-of-membership review. 46 Tex. Reg. 7873–74 (Nov. 19, 2021); PFD at 6–8. CTCU does not argue that the amendment eliminated the facilities element. It argues that the Order should not restore physical branches as the exclusive qualifying facility without saying so in the rule.

E. Finding 16 does not explain why CTCU's multiple delivery channels are legally insufficient to be responsive to prospective members.

Determinations challenged: Finding of Fact 16; Conclusions of Law 7, 10, and 11; the related Explanations of Changes; and the denial.

CTCU accepts the Commission's premise that all persons eligible under the proposed field are prospective members and that their convenience and needs must be considered. Order at 4–5. The dispute is the legal consequence. Section 91.301(g)(3) directs the commissioner to consider "service by the credit union that is responsive to the convenience and needs of prospective members." It does not say that every eligible person must receive every product through every

preferred channel, or that a credit union must place a staffed branch near every prospective member.

The Order says the application addressed only digital services and rejects the ALJ's observation that no inability or operational concern warranted a geographic limit as burden shifting. Order at 4–5. But the hearing record, not merely the application, covered more than digital service: mobile and online banking; live technical support; 24-hour IVR; telephone transactions; postal communications and mailed cashier's checks; CO-OP/ATM access; online applications; and targeted outreach. Pet. Ex. 8 at 10:2–14:19, 46:2–51:21 (CTCU EX 8-000010–14, -000046–51). The Commission also retained Findings 10, 13, 14, and 17, which recognize those delivery systems and their responsiveness to at least some prospective members.

Even if every eligible person is prospective, the Order does not explain why mail, telephone/IVR, CO-OP/ATM, mobile and online tools, and rural digital access together are unresponsive, what identified convenience or need must be met through a staffed branch, or why the absence of new branches alone supplies the rational connection to Finding 16. The evidence that some transactions may be easier in person and that ATM coverage was not proven county by county is relevant; it does not answer those questions without an articulated standard.

Section 91.301(a) reinforces the need for a reasoned, tailored determination. It says the Commissioner may impose a geographic limitation if the Commissioner reasonably determines that the applicant lacks ability to serve a larger group or that operational or management concerns exist. The ALJ's reference to the absence of such concerns did not relieve CTCU of its burden under (g)(3); it addressed the predicate for a discretionary limitation. The Order identifies no capacity shortfall or operational or management concern. If the Commission believes a particular service gap warrants a geographic limit, it should identify the gap and the reasonable limit. Section 91.301(a) does not itself mandate partial approval, but it does not support unexplained outright denial either.

F. Findings 11 and 12 do not apply the former community-of-interest text with adequate legal and severability analysis.

Determinations challenged: Findings of Fact 11 and 12; Conclusions of Law 5.a, 5.b, 10, and 11; the related Explanations of Changes; and the denial.

1. Whether Texas was a "recognized single political jurisdiction" under the former rule is a preserved question of law.

The Order applies § 91.101(a)(7)(C) as it existed when CTCU filed. Order at 4 n.1. That version stated that the geographic community-of-interest requirements are met if the area is "in a recognized single political jurisdiction, e.g., a city or a county, or a portion thereof." The ALJ treated "e.g." as illustrative and concluded that Texas is a recognized political jurisdiction. PFD at 8–10. The Commission held that the rule "was not, and could not have been, intended" to reach the entire State because Texas residency alone would make the statutory community-of-interest limitation meaningless. Order at 3–4.

CTCU preserves the plain-text objection. "E.g." introduces examples, not an exhaustive list, and the former rule used "jurisdiction," an undefined term, and the Commission only later substituted "subdivision" and supplied a definition." Courts do not defer to an agency construction that contradicts unambiguous text, and current § 2001.1721 requires de novo review of legal questions. *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 438–39 (Tex. 2011);

Rodriguez v. Service Lloyds Insurance Co., 997 S.W.2d 248, 254–56 (Tex. 1999). Finding 12 is therefore a legal conclusion despite its label as a finding of fact.

The 2025 amendment replaced the former wording with "recognized single political subdivision" and a definition. That later amendment cannot govern this 2022 application, and CTCU does not treat the amendment as a binding concession about what the former rule meant. The proposal described the change as clarification. It nevertheless confirms that the Commission knew how to adopt an express, defined limitation prospectively. The former text must be interpreted on its own terms and in harmony with Finance Code § 122.051(a)(1), not rewritten by the later language.

2. The Order's statewide rationale does not resolve the county-group alternative it expressly says it decided.

The Order says its conclusion is the same whether the application is viewed as one statewide group or as a request to add 253 individual counties. Order at 4. Its explanation, however, addresses the statewide route: Texas residency cannot be the only bond because that would permit every Texan to join. That reasoning does not explain the county route, because a county is the former rule's express example of a qualifying geographic community.

Section 91.301(a) permits "one or more groups," each with its own community of interest, and § 91.301(c) contemplates multiple communities or combinations. The Commissioner's August 8, 2022 preliminary decision approved eight additional counties from this same application, and Finding 2 preserves that procedural fact. CTCU raised the multiple-county construction in its reply brief. Petitioner's Reply Brief at 3 n.6.

CTCU recognizes the counterargument: its application and proposed bylaw principally described a single statewide group, and the Commission need not redesign an application into 253 groups if the proposed text is not severable. The rehearing point is narrower. Because the Order expressly claimed to decide both routes, it should state whether the application and proposed bylaw permit severance and, if they do, why counties that are explicit examples under the former rule fail. CTCU does not demand 253 repetitive findings; it asks for the legal rule and factual basis that dispose of the county alternative.

G. New Conclusion 10 overstates the PFD's omission and does not identify which § 122.006 determination the record fails.

Determinations challenged: Conclusion of Law 10; Conclusion of Law 11; the Explanation of Changes to Conclusions; and the denial.

Section 122.011(c) is important and CTCU does not minimize it. In approving a bylaw amendment, the Commissioner must make the findings provided by § 122.006(a), may consider the matters in § 122.006(b), may not approve an amendment that violates the subtitle or rules, and must state reasons for disapproval with reasonable specificity. The Commission added Conclusion 10 that CTCU failed to show compliance with Chapter 122 and the rules, explaining that the ALJ approved the amendment despite a "lack of evidence in the application" and "wholly failed" to make the determinations required by § 122.006. Order at 6–8.

That explanation is both too broad and tied to the wrong evidentiary premise. The PFD expressly found that "the character and size of the field of membership to be served by the credit union favor CTCU's economic viability" and cited § 122.006(a)(2)(B). PFD at 20 & n.55. It also

found CTCU well capitalized, able to provide responsive service, and able to protect current and future members. *Id.* at 18–20, Findings 15–20. The PFD may not have organized every § 122.006(a) determination as a separately numbered conclusion, but it did not "wholly fail" to address the statutory inquiry.

Nor does Conclusion 10 specify whether the asserted failure concerns § 122.006(a)(1), (a)(2)(A), (B), or (C), which evidence is missing, or how the hearing record fails. The rescinded February 5, 2025 order is not binding, but it demonstrates that the Commissioner was able to make several § 122.006 findings from this same record. The Commission has authority under § 93.602 to make the statutory determinations itself or to remand for express findings.

Rehearing should be granted so the Commission can identify each required statutory determination, apply the whole record, and make an express finding with reasonable specificity. If Conclusion 10 is intended as an independent ground for denial, that clarification is essential; otherwise a reviewing court cannot tell whether correcting Findings 11, 16, 19, or 20 would alter the disposition.

H. To the extent the Order announces generally binding standards not found in the rule, it is arbitrary or requires rulemaking; if it makes case-specific judgments, it lacks the necessary explanation.

Determinations challenged: Findings of Fact 11, 16, 19, and 20; Conclusions of Law 5.b and 7–11; the Explanations of Changes; and the denial.

An agency may develop policy through adjudication in an appropriate case, and not every application of expertise is a "rule." *Subaru*, slip op. at 22–29. CTCU therefore does not claim that the entire Order is procedurally defective merely because the Commission weighed the criteria differently. The preservation issue is conditional.

If the Commission intended case-specific judgments, it should identify the case-specific facts and explain their weight. If instead the Order treats any of the following as generally binding prerequisites: service responsive to every eligible person or preference, newly created safeguards, or new staffed branches; those standards have future general applicability and materially amend the published criteria. To that extent, they should be adopted through the APA's rulemaking process rather than announced without notice in a final adjudicative order. *See Amarillo Independent School District v. Meno*, 854 S.W.2d 950, 958 (Tex. App.—Austin 1993, writ denied); Tex. Gov't Code § 2001.003(6).

The same conditional analysis applies to unexplained departure from the Commission's 2021 removal of the physical-proximity structure. An agency acts arbitrarily when it applies a new standard without notice or explanation or fails to follow its rules. *Oncor Electric Delivery Co. v. Public Utility Commission*, 406 S.W.3d 253, 264–70, 272 (Tex. App.—Austin 2013, no pet.). Rehearing will allow the Commission to clarify whether its reasoning is case-specific and, if so, to supply the missing factual connection.

I. CTCU preserves the approval language in § 91.301(d)(2) without treating it as a substitute for proving compliance.

Determinations challenged: Conclusion of Law 11 and the denial.

Section 91.301(d)(2), within the overlap-protection subsection, states that an application "shall be approved" if the applicant has financial capacity, demonstrates economic feasibility,

complies with the rule, and no protestant reasonably establishes a basis for denial. No protestant appeared; the Commission retained the well-capitalized finding; and the Order makes no express finding of economic infeasibility. CTCU acknowledges that compliance with the rule is disputed and that (d)(2) may be read as governing overlap analysis. It therefore does not rely on this provision as an automatic shortcut to approval. It preserves the argument that, once the errors in the Commission's compliance analysis are corrected, the mandatory language supports approval and should be addressed in the new decision.

IV. THE ERRORS PREJUDICE CTCU'S SUBSTANTIAL RIGHTS

Judicial relief under § 2001.174 requires prejudice to substantial rights. *Dyer v. Texas Commission on Environmental Quality*, 646 S.W.3d 498, 514 (Tex. 2022). *Dyer* also construed a TCEQ-specific statute, Government Code § 2003.047(m), that gives TCEQ broader authority to amend a PFD; it does not dilute § 2001.058(e) here. The harmless-error inquiry remains important: an error may not require reversal if a separate, lawful, adequately explained ground independently sustains the result.

The challenged errors are central, not peripheral. Conclusion 11 expressly incorporates Findings 11, 12, 16, 19, and 20 and Conclusions 5.a, 5.b, and 7–10. Order at 8. The whole-record defect affects four changed findings and Conclusion 10. The § 2001.058 defect affects Findings 19 and 20 and Conclusions 8 and 9. The extra-textual standards affect the service, protection, and facilities criteria. The community-of-interest construction is an independent legal issue, but the Order's county alternative lacks a severability analysis. Conclusion 10 could be an independent statutory ground only if the Commission identifies the missing determination and evaluates the complete record; the present explanation does neither.

These errors changed the result from approval to denial after years of administrative proceedings. They impair CTCU's ability to understand and answer the Commission's actual standard and prevent a reviewing court from determining whether the denial rests on lawful criteria and substantial evidence. CTCU's substantial rights are prejudiced under § 2001.174(2).

V. RELIEF REQUESTED

CTCU respectfully requests the following relief, in order of preference:

1. Grant rehearing; withdraw the challenged changes to Findings 11, 12, 16, 19, and 20 and Conclusions 5.a, 5.b, and 7–11; adopt the PFD; and approve CTCU's application without modification.
2. Alternatively, grant rehearing and issue a new order based on the complete hearing record under § 93.602. For each departure from the PFD, identify the precise legal error, the accepted basic facts, the inference drawn, and the agency policy or rule connecting those facts to the changed result, as § 2001.058(e), *Hyundai*, and *Subaru* require.
3. Make the findings required by Texas Finance Code §§ 122.006(a) and 122.011(c) expressly and with reasonable specificity, identifying the subsection and record basis for any adverse determination.
4. Address the former-rule community-of-interest question as a legal issue and state whether the application and proposed bylaw permit the county-group alternative to be severed; if so, state the rule and facts resolving that alternative.

5. If the Commission concludes that the existing record does not establish an opportunity to expand facilities under § 91.301(g)(5), remand or reopen the proceeding for that limited purpose under § 93.602 rather than deny the application on the contents of the 2022 form alone.

6. Grant CTCU fifteen minutes of oral argument at any Commission meeting scheduled to consider this motion. This request states the time sought under § 93.603; CTCU will renew it at least fifteen days before the scheduled meeting if necessary.

PRAYER

For these reasons, Cooperative Teachers Credit Union asks the Commission to grant this Motion for Rehearing; reinstate the ALJ's Findings of Fact 11, 12, 16, 19, and 20 and Conclusions of Law 5, 7, 8, 9, and 10 as stated in the PFD; withdraw modified Conclusions 5.a and 5.b, modified Conclusions 7–9, new Conclusion 10, and Conclusion 11; adopt the PFD and approve the application without modification; alternatively, grant the other relief requested in Section V; and grant all other lawful relief to which CTCU is entitled.

Respectfully submitted,

*/s/ Tim Miller*_____
Tim Miller, President/CEO
Authorized Representative for
Cooperative Teachers Credit Union
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Tyler, Texas 75701
(903) 561-2603

CERTIFICATE OF SERVICE

I certify that on September 1, 2026, a true and correct copy of this Motion for Rehearing was filed with the Credit Union Commission and served by electronic mail on the following counsel of record:

Devon Bijansky, General Counsel
Texas Credit Union Department
914 East Anderson Lane
Austin, Texas 78752
devon.bijansky@cud.texas.gov

_/s/ *Tim Miller*_____
Tim Miller

APPENDIX A

INDEX OF CHALLENGED DETERMINATIONS AND GROUNDS ASSERTED

This index is provided to satisfy Texas Government Code § 2001.146(g). It summarizes and does not limit the complaints in the motion. Section references are to the motion.

Challenged determination	Particularized complaint / motion section	§ 2001.174(2)
Finding 11	Application-only phrasing violates or obscures § 93.602 (III.A); former-rule and county-alternative errors (III.F); conditional unannounced-standard issue (III.H).	A, C–F
Finding 12	Legal conclusion mislabeled as fact; former "political jurisdiction" text and later-amendment issues (III.F.1).	A, D, F
Finding 16	Whole-record defect (III.A); unexplained responsiveness standard and retained contrary facts (III.E); conditional unannounced-standard issue (III.H).	A–F
Finding 19	Whole-record defect (III.A); inadequate § 2001.058(e) explanation (III.B); extra-textual novelty requirement and unaddressed protection evidence (III.C).	A, C–F
Finding 20	Whole-record defect (III.A); inadequate § 2001.058(e) explanation (III.B); branch/facility construction and unaddressed record evidence (III.D).	A, C–F
Conclusions 5.a & 5.b	Depend on Findings 11–12 and the same former-rule, county-alternative, and whole-record errors (III.A, III.F).	A, B, D–F
Conclusion 7	Depends on Finding 16 and the same whole-record and responsiveness-standard errors (III.A, III.E).	A–F
Conclusions 8 & 9	Depend on Findings 19–20 and explanations that do not satisfy § 2001.058(e) (III.B–D).	A, C–F
New Conclusion 10	Application-only premise; fails to identify missing § 122.006 finding or record deficiency; PFD expressly addressed § 122.006(a)(2)(B) (III.A, III.G).	A, C–F
Conclusion 11 / denial	Incorporates all challenged determinations; approval language preserved; prejudice and lack of independently explained basis (III.I, IV).	A–F
Explanations of Changes	Fail to identify the particular legal misapplication and factual/policy connection required by § 2001.058(e); repeatedly use application-only phrasing (III.A–H).	A, C, D, F

Credit Union Department, State of Texas
Case No 22-033-01

Cooperative Teachers Credit Union, Petitioner	§ § §	Before the Credit Union Commission
v.	§ §	
Credit Union Department, State of Texas Respondent	§ §	

ORDER

At its meeting on August 7, 2026, the Credit Union Commission issued a final order in the above-referenced matter. Cooperative Teachers Credit Union then filed a Motion for Rehearing (Motion) on September 1, 2026. Pursuant to Section 2001.146(e) of the Texas Government Code, the deadline for the agency to act on the Motion is hereby extended to November 13, 2026.

Credit Union Department

Robert W. Etheridge
Commissioner

9/10/2026
Date

Credit Union Department, Texas

Case No 22-033-01

Cooperative Teachers Credit Union, Petitioner	§ § §	Before the
v.	§ §	Credit Union
Credit Union Department, Respondent	§ §	Commission

ORDER GRANTING MOTION FOR REHEARING

At its meeting on November 6, 2026, the Credit Union Commission ("Commission") has considered the Motion for Rehearing ("Motion") filed by Cooperative Teachers Credit Union on September 1, 2026.

By order dated September 10, 2026, the Commissioner extended the date for Commission action on the motion to November 13, 2026.

The Motion is granted.

Credit Union Commission

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Jim Minge, Chair

DRAFT

Credit Union Department, Texas

Case No 22-033-01

Cooperative Teachers Credit Union, Petitioner	§ § §	Before the
v.	§ §	Credit Union
Credit Union Department, Respondent	§ §	Commission

ORDER DENYING MOTION FOR REHEARING

At its meeting on November 6, 2026, the Credit Union Commission ("Commission") has considered the Motion for Rehearing ("Motion") filed by Cooperative Teachers Credit Union on September 1, 2026.

By order dated September 10, 2026, the Commissioner extended the date for Commission action on the motion to November 13, 2026.

The Motion is denied.

Credit Union Commission

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Jim Minge, Chair

DRAFT

Credit Union Department, Texas

Case No. 22-033-01

Cooperative Teachers Credit Union, Petitioner	§ § §	Before the
v.	§ §	Credit Union
Credit Union Department, Respondent	§ §	Commission

FINAL ORDER

The Credit Union Commission ("Commission") has reviewed the application of Cooperative Teachers Credit Union ("CTCU") to amend its bylaws ("Application") to expand its field of membership to all 254 counties within the State of Texas; the record of the proceedings before the State Office of Administrative Hearings in this matter; the Commissioner's Final Order on Remand; and the laws and rules applicable to this case.

Procedural History

On or about May 5, 2022, CTCU filed its Application with the Credit Union Department ("Department").

On or about August 8, 2022, the Department's Commissioner issued a preliminary decision granting Petitioner a field of membership expansion to eight counties adjoining/near its current geographic field of membership.

On or about September 22, 2022, Petitioner requested a hearing before the State Office of Administrative Hearings (SOAH).

On or about August 14, 2024, SOAH issued its Proposal for Decision (PFD), attached to this order as Exhibit A, recommending approval of the field of membership expansion to all 254 counties in Texas.

On or about September 12, 2024, the Department filed exceptions to the PFD, to which Petitioner filed a response and which SOAH denied on or about October 2, 2024.

On October 25, 2024, the Commission considered the PFD and remanded the case to the Commissioner for final action. On November 8. 2024, the Commission ratified its decision to remand the case to the Commissioner.

On or about February 5, 2025, Credit Union Commissioner Michael S. Riepen issued a Final Order on Remand, denying the Application.

On or about February 13, 2025, CTCU filed an appeal of the Final Order on Remand.

Order

The Commissioner's Final Order on Remand issued on February 5, 2025, is hereby rescinded. The Commission adopts the Proposal for Decision with modifications to the Findings of Fact and Conclusions of Law as reflected below:

V. FINDINGS OF FACT

1. On May 6 [5], 2022, Cooperative Teachers Credit Union (CTCU) filed an application to amend its by-laws (Application), seeking to expand its field of membership (FOM) to a include an additional group, consisting of all 254 counties within the State of Texas (the Group).

2. On August 8, 2022, the commissioner (Commissioner) of the Texas Credit Union Department (CUD) issued an Order Approving Application with modifications, which permitted CTCU's FOM to comprise of nine counties (Smith County, plus eight additional counties near Smith County), rather than all 254 counties in Texas.

3. On September 22, 2022, CTCU requested a hearing to contest the Commissioner's Order.

4. On December 7, 2022 ~~2024~~, CUD submitted a Request to Docket to the State Office of Administrative Hearings (SOAH), referring the matter ~~to~~ for a contested case hearing.

5. On February 9, 2023 ~~2024~~, the Administrative Law Judge (ALJ) issued Order No. 2, setting the hearing and providing participation instructions.

6. Together, the Request to Docket and Order No. 2 contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.

7. The hearing on the merits convened via videoconference on May 13, 2024, before Administrative Law Judge Linda Brite of SOAH. Attorney Casey Bell represented CTCU. Attorneys Zachary Rhines and Reuben Blum represented the CUD. The record closed on June 20, 2024, after submission of written closing briefs.

8. CTCU's proposed FOM of the entire State of Texas is unprecedented for Texas-chartered credit unions.

9. CTCU maintains its principal place of business in Smith County, Texas.

10. CTCU serves its current members through a website, mobile banking, physical branch, and a nationwide ATM network.

11. CTCU did not establish in its application that the [~~The~~] Group has unifying characteristics and mutual interests.

12. The State of Texas is not a recognized single political jurisdiction for purposes of 7 TAC § 91.101.

13. There are prospective members in the 254 counties of Texas who are interested in using digital financial services.

14. CTCU offers current members—and plans to provide future members—services through remote account management tools, user-friendly mobile apps, online loan and account applications, and conversational artificial intelligence.

15. CTCU is well-capitalized based on its net worth ratio, per National Credit Union Administration standard.

16. CTCU did not establish in its application that it is able to provide service that is responsive to the convenience and needs of prospective members.

17. Remote and mobile banking services are responsive to some prospective members' convenience and needs.

18. The credit unions are able to maintain parity and compete fairly with their counterparts.

19. CTCU did not establish in its application that the [~~The~~] expansion of the FOM would protect the interest of current and future members of CTCU.

20. CTCU did not establish in its application that expansion [~~Expansion~~] of the FOM will encourage economic progress in this state by allowing CTCU the opportunity to expand services and facilities.

Explanation of Changes to Findings of Fact

Findings of Fact numbers 1, 4 and 5 are changed pursuant to Tex. Govt. Code § 2001.058(e)(3) because the Commission has determined that there were technical errors in those findings of fact, i.e., the Application was submitted on May 6, 2022, not May 5, 2022; the Department's

Request to Docket was submitted to SOAH in 2022, not 2024; and the ALJ issued Order no. 2 in 2023, not 2024.

Finding of Fact numbers 11 and 12 are changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret Tex. Fin. Code § 122.051(a)(1), 7 Tex. Admin. Code § 91.301, and 7 Tex. Admin. Code § 91.101(a)(7)(C). Specifically, whether the Application is viewed as a request to add 253 individual counties to the field of membership or to expand it to the entire state of Texas, CTCU failed to show how the statutory requirement of a definable community of interest is satisfied. The ALJ cited 7 Tex. Admin. Code § 91.101(a)(7)(C), which stated at the time the Application was filed, "the geographic community of interest requirements are met if the area to be served is in a recognized single political jurisdiction, e.g., a city or a county, or a portion thereof"; however, this rule was not, and could not have been, intended to apply to the entire state of Texas. Considering the entire state a single political jurisdiction for purposes of field of membership under Tex. Fin. Code § 122.051(a)(1), 7 Tex. Admin. Code § 91.301, and 7 Tex. Admin. Code § 91.101(a)(7)(C), all of which apply only within Texas, would render the concept of community of interest meaningless. 7 TAC § 91.101(a)(7) was adopted pursuant to Tex. Fin. Code § 122.051(a)(1), which prohibits membership in a credit union by a person who does not share a definable community of interest with other members. If merely being Texan were an adequate "unifying factor" under the definition of "community of interest,"[1] every Texan would qualify for membership within it and every Texas-chartered credit union could qualify for a geographic community of interest covering the entire state, and Tex. Fin. Code § 122.051(a)(1) would have no effect. To give effect to this statute, "definable community of interest...based on occupation, association, or residence" must require more than merely being Texas residents. A group that shares only Texas residency does not have unifying characteristics or mutual interests for purposes of a credit union's field of membership, and CTCU provided no evidence of any other unifying characteristics or mutual interests shared by the group proposed to be added to its field of membership.

Finding of fact number 16 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7 Tex. Admin. Code § 91.301(g)(3), which requires the Commissioner to consider whether the credit union will provide service that is responsive to the convenience and needs of prospective members. All members of the potential expanded field of membership are prospective members, not merely those whose convenience and needs are met by a credit union's proposed offerings. The Application did not address how CTCU would provide such service to the field of membership; rather, it addressed only those prospective members "that wish to conduct their business through digital channels," with the ALJ stating, correctly, in Finding of Fact number

[1] 7 TAC § 91.101(a)(7) as that rule existed at the time the Application was filed.

17 that the "remote and mobile banking services" CTCU proposed to offer in lieu of establishing new physical branches "are responsive to *some* [emphasis added] prospective members' convenience and needs." The ALJ interpreted this requirement to "not require CTCU to be responsive to the convenience and needs of *all* potential members of the Group,"[2] which is illogical and inconsistent with its language. Such interpretation would require only that a credit union identify *some* prospective members who find the offered services responsive to their convenience and needs, effectively rewriting this requirement as requiring the Commissioner to consider the convenience and needs of the subset of prospective members who find the services responsive to their convenience and needs. Rather, *all* people living, working, worshipping, and attending school within a given area are within the geographic community of interest and therefore are prospective members of the credit union, and their convenience and needs must be considered. Moreover, the ALJ wrongly shifted the burden of proof to the Department in stating that "[t]he record does not establish any inability to serve a larger group or other operational or management concerns to warrant a geographic limitation of the Group" after correctly noting that CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence pursuant to 7 Tex. Admin. Code § 93.303(b) and1 Tex. Admin. Code § 155.427.[3]

Finding of Fact number 19 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7 Tex. Admin. Code § 93.303(b)-(c) and 1 Tex. Admin. Code § 155.427. In its Application CTCU did not provide any evidence that the expansion of the field of membership would protect the interest of its current and former members, instead merely listing the deposit insurance, certain policies, and compliance measures already in place that would also apply to future members. Because CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence,[4] there is insufficient evidence to conclude that expansion of the FOM would protect the interest of current and future members of CTCU.

Finding of Fact number 20 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7 Tex. Admin. Code § 93.303(b)-(c) and 1 Tex. Admin. Code § 155.427. CTCU has made clear that it does not intend to extend facilities as part of a potential field of membership expansion, and in the Application it stated only that it would execute targeted marketing campaigns focused on new member growth by means of personal consumer loan growth, followed by unsupported conclusory statements about promotion of economic progress. Because CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a

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[2] PDF at 12.
[3] PFD at 9.
[4] 7 Tex. Admin. Code § 93.303(b)-(c) and 1 Tex. Admin. Code § 155.427

preponderance of the evidence,[5] there is insufficient evidence to conclude that expansion of the field of membership will encourage economic progress in this state by allowing CTCU the opportunity to expand services and facilities

VI. CONCLUSIONS OF LAW

1. CUD has jurisdiction over the Application. Tex. Fin. Code §§ 122.005, .011; 7 Tex. Admin. Code § 91.202.

2. SOAH has the authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.

3. Sufficient notice of the hearing was provided. Tex. Gov't Code §§ 2001.051-.052.

4. Applicant CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence. 7 Tex. Admin. Code § 93.303(b); 1 Tex. Admin. Code § 155.427.

5.a. The State of Texas is not a valid political jurisdiction for purposes of establishing a community of interest under the Credit Union Act and Credit Union Department rules. Tex. Fin. Code Ch. 15 and Title 3, Subtitle D; 7 Tex. Admin. Code, Part 6.

5.b. CTCU did not meet its burden of showing to the Department such facts and data that support that the [~~The~~] Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained. 7 Tex. Admin. Code § 91.301(g)(1).

6. Credit unions will be able to maintain parity and compete fairly with their counterparts. 7 Tex. Admin. Code § 91.301(g)(2).

7. CTCU did not meet its burden of showing to the Department such facts and data that support that it is able to provide service that is responsive to the convenience and needs of prospective members. 7 Tex. Admin. Code § 91.301(g)(3).

8. CTCU did not meet its burden of showing to the Department such facts and data that support that expansion [~~Expansion~~] of the FOM will protect the interest of current and future members of CTCU. 7 Tex. Admin. Code § 91.301(g)(4).

9. CTCU did not meet its burden of showing to the Department such facts and data that support that expansion [~~Expansion~~] of the FOM encourages the economic progress in this

[5] 7 Tex. Admin. Code § 93.303(b)-(c) and1 Tex. Admin. Code § 155.427.

State by allowing opportunity to expand services and facilities. 7 Tex. Admin. Code § 91.301(g)(5).

10. CTCU did not meet its burden of showing that it complied with Finance Code Chapter 122 and rules adopted thereunder. Tex. Fin. Code § 122.006 and 122.011.

11. [~~10.~~] The Commissioner should not approve the Application without modification.

Explanation of Changes to Conclusions of Law

Conclusion of Law number 5 is changed (becoming Conclusions of Law 5.a and 5.b) pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret Tex. Fin. Code § 122.051(a)(1), 7 Tex. Admin. Code § 91.301, and 7 Tex. Admin. Code § 91.101(a)(7)(C), as addressed in the narrative regarding Findings of Fact 11 and 12. Without establishing unifying characteristics beyond merely being Texan, CTCU cannot meet its burden of showing to the Department such facts and data to support that the Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained.

Conclusion of Law number 7 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7 Tex. Admin. Code § 91.301(g)(3), as addressed in the narrative regarding Finding of Fact number 16. As the ALJ correctly noted, CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence,[6] and it has not satisfied its burden of showing to the Department such facts and data to support that it is able to provide service that is responsive to the convenience and needs of prospective members.

Conclusion of Law number 8 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7 Tex. Admin. Code § 93.303(b)-(c) and 1 Tex. Admin. Code § 155.427, as addressed in the narrative regarding Finding of Fact number 19. As the ALJ correctly noted, CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence,[7] and it has not satisfied its burden of showing to the Department such facts and data to support that expansion of the field of membership will protect the interest of current and future members of CTCU.

Conclusion of Law number 9 is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret 7

[6] PDF at 4.
[7] PDF at 4.

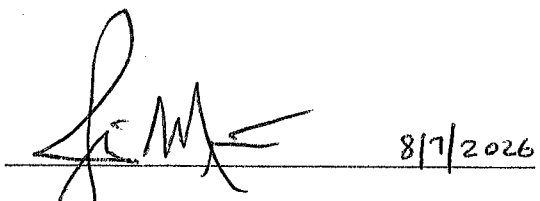
Tex. Admin. Code § 93.303(b)-(c) and 1 Tex. Admin. Code § 155.427, as addressed in the narrative regarding Finding of Fact number 20. As the ALJ correctly noted, CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence,[8] and it has not satisfied its burden of showing to the Department such facts and data to support that expansion of the field of membership encourages the economic progress in this State by allowing opportunity to expand services and facilities.

New Conclusion of Law number 10 is added pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret Tex. Fin. Code §§ 122.006 and 122.011. Section 122.011 establishes the requirements for the Commissioner to approve a bylaw amendment and prohibits approval of an amendment that he finds would violate Title 3, Subtitle D, of the Finance Code (which includes Chapter 122) or rules adopted under the subtitle. The ALJ misapplied Section 122.011 by approving the amendment despite lack of evidence in the application to find the requirements of 7 Tex. Admin. Code § 91.301 satisfied and wholly failed to make the determinations required by § 122.006.

Conclusion of Law number 10 (renumbered as 11) is changed pursuant to Tex. Govt. Code § 2001.058(e)(1) because the Commission has determined that the ALJ did not properly apply or interpret Tex. Fin. Code § 122.051(a)(1), 7 Tex. Admin. Code §§ 91.101(a)(7)(C), 91.301, 93.303, and 1 Tex. Admin. Code § 155.427, as addressed in the narrative regarding Findings of Fact 11, 12, 16, 19, and 20 and Conclusions of Law numbers 5.a, 5.b, 7, 8, and 9. Because CTCU did not meet its burden of showing to the Department such facts and data that support the requirements and considerations identified in 7 TAC § 91.301(g), the Application should not be approved.

The Application is denied.

Credit Union Commission



Jim Minge, Chair

[8] PDF at 4.

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

COOPERATIVE TEACHERS CREDIT UNION,
PETITIONER
V.
TEXAS CREDIT UNION DEPARTMENT,
RESPONDENT

PROPOSAL FOR DECISION

Cooperative Teachers Credit Union (CTCU) contests the modifications incorporated by the Texas Credit Union Department (CUD) Commissioner in the Order approving CTCU's application to amend its bylaws (Application). The Administrative Law Judge (ALJ) finds that CTCU met its burden to show the Application meets the applicable requirements and considerations. Accordingly, the ALJ recommends that the Application be granted without modification.

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I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no contested issues of notice or jurisdiction in this proceeding. Those matters are addressed solely in the findings of fact and conclusions of law.

CTCU seeks to expand its field of membership to include all counties within the State of Texas. The commissioner (Commissioner) of the Texas Credit Union Department (CUD) approved the application with modifications, limiting CTCU's field of membership (FOM) to nine counties (Smith County and surrounding eight counties), rather than all counties in Texas. CTCU requested a hearing to contest the Commissioner's Order.

The hearing on the merits convened via videoconference on May 13, 2024, before State Office of Administrative Hearings (SOAH) ALJ Linda Brite. Attorney Casey Bell represented CTCU. Attorneys Zachary Rhines and Reuben Blum represented CUD. The record closed on June 27, 2024, after submission of written closing briefs.

II. APPLICABLE LAW

In Texas, CUD regulates state-chartered credit unions, including supervision and regulation of credit unions and their fields of membership.[1] A credit union's field of membership (FOM) "refers to the totality of persons a credit union may accept as members."[2]

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[1] *See* Tex. Fin. Code §§ 121.0011, .002.

[2] 7 Tex. Admin. Code § 91.101(a)(11); *see* 7 Tex. Admin. Code § 91.301(a).

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To be a member of a Texas credit union, a person must fall under at least one of three categories of a "definable community of interest . . . including a community of interest based on occupation, association, or residence[.]"[3] A community of interest is a "unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union."[4] Each credit union must state "the definable community of interest shared by the members of the credit union at the time of incorporation."[5]

A residential community of interest category is "based on a clearly defined and specific geographic area where persons have common interests and/or interact."[6] A geographic community of interest incorporates four types of affinity: persons who "(i) live in; (ii) worship in; (iii) attend school in; or (iv) work in that community. The geographic community of interest requirements are met if the area to be served is in a recognized single political jurisdiction, e.g., a city or a county, or a portion thereof."[7]

If a credit union wishes to expand its FOM via a change in its articles of incorporation or by-laws, the credit union must submit an application seeking the

[3] Tex. Fin. Code § 122.051(a)(1).

[4] 7 Tex. Admin. Code § 91.101(a)(7).

[5] Tex. Fin. Code § 122.001(c)(1)(H); *see also* 7 Tex. Admin. Code § 91.101(a)(7).

[6] 7 Tex. Admin. Code § 91.101(a)(7)(C).

[7] 7 Tex. Admin. Code § 91.101(a)(7)(C).

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approval of the CUD Commissioner.[8] The Commissioner may impose a geographic limitation on any Group if the Commissioner reasonably determines that the applicant credit union does not have the ability to serve a larger group or there are other operational or management concerns.[9]

In reviewing an application to amend a credit union's articles of incorporation or by-laws to expand a FOM, the Commissioner must consider:

1. whether the Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained;
2. the ability of credit unions to maintain parity and to compete fairly with their counterparts;
3. service by the credit union that is responsive to the convenience and needs of prospective members;
4. protection for the interest of current and future members of the credit union; and
5. the encouragement of economic progress in this State by allowing opportunity to expand services and facilities.[10]

The applicant bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence.[11] In preparing a Proposal for Decision, the ALJ shall consider all statutes, rules, and policies upon

[8] Tex. Fin. Code § 122.011(b).

[9] 7 Tex. Admin. Code § 91.301(a).

[10] 7 Tex. Admin. Code § 91.301(g).

[11] 7 Tex. Admin. Code § 93.303(b);1 Tex. Admin. Code § 155.427; *see* 7 Tex. Admin. Code § 91.301(g).

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which the preliminary decision—the Order—was based, along with the testimony and documentary evidence presented in hearing.[12]

III. DISCUSSION

CTCU and CUD had two joint exhibits admitted.[13] CTCU had seven additional exhibits admitted and presented the testimony of President and CEO Tim Miller.[14] CUD had four additional exhibits admitted and presented the testimony of former Interim Commissioner Robert Etheridge.[15]

A. UNIFYING CHARACTERISTICS AND DEFINABLE COMMUNITY INTEREST

The Commissioner shall consider whether the Group has adequate unifying characteristics or mutual interest.[16] The geographic area requirement is met if the area to be served is in a recognized single political jurisdiction.[17] The Commissioner

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[12] 7 Tex. Admin. Code § 93.303(a).

[13] Joint Exhibit 1 (CTCU's Application to Amend its By-Laws, filed 5/5/2022); and Joint Exhibit 2 (CUD's Modified Order Approving CTCU's Application).

[14] CTCU Exhibit 3 (CTCU's Form 5300 Call Report, effective 3/31/2022); CTCU Exhibit 4 (CTCU's Financial Performance Report (FPR) – Historical Ratios for the Quarter ending March 2022); CTCU Exhibit 5 (CTCU's FPR – Key Ratios for the Quarter ending December 2023); CTCU Exhibit 6 (CTCU's FPR – Financial Summary for the Quarter ending December 2023); CTCU Exhibit 7 (CTCU's Responses to CUD's Requests for Interrogatories numbers 7-10 and 12-14); CTCU Exhibit 8 (Complete Deposition Transcript of Tim Miller); and CTCU Exhibit 9 (Monthly Report for April 2024).

[15] CUD Exhibit 3 (CTCU's Financial Data); CUD Exhibit 4 (CUD's Requests for Interrogatories and CTCU's Responses); CUD Exhibit 5 (Transcript Excerpts from the Deposition of Tim Miller); and CUD Exhibit 6 (Complete FPR from March 2024).

[16] 7 Tex. Admin. Code § 91.301(g)(1).

[17] 7 Tex. Admin. Code § 91.101(a)(7)(C).

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may impose a geographical limitation on any Group if the Commissioner reasonably determines that the applicant credit union does not have the ability to serve a larger group or there are other operational or management concerns.[18]

1. CTCU's Position

The Group that CTCU seeks to add to its FOM consists of 254 counties. CTCU contends that the people share the same community interest based on their living, working, attending school or worshipping in those counties, and the shared economic, social, and cultural ties bind Texans together. According to CTCU, common interests among Texans are education needs, home ownership, small businesses, and family ties, which are substantial unifying characteristics.[19]

The prior version of 7 Texas Administrative Code section 91.301 (FOM Rule) required each community of interest to be "within the credit union's local service area."[20] However, the Commission amended the FOM Rule effective November 28, 2021, removing the definition of local service area and related physical office requirements.[21] The stated purpose of the amendment included:

- ensure consistency with and provide the full extent of the field of membership language provided by Texas Finance Code Section 122.051;

[18] 7 Tex. Admin. Code § 91.301(a).

[19] Resp. Ex. 4-a at 583.

[20] 7 Tex. Admin. Code § 91.301(a) (effective July 13, 2008, to Nov. 27, 2021). The local service area generally consisted of "one or more contiguous political subdivisions within reasonable proximity of a credit union's offices."

[21] 46 Tex. Reg. 7873 (Nov. 19, 2021).

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- recognize the growing consumer expectation of operational efficiencies obtained through, and safety and soundness implications of digital delivery of financial services,

- help ensure parity with both federal and foreign state credit unions doing business in Texas;

- allow the commissioner to consider an institution's ability to provide financial services through digital channels to meet the needs of its membership.[22]

The amended version of the FOM Rule applies to CTCU's application. CTCU asserts that the Commissioner's preliminary decision on CTCU's application erroneously applied the local service area requirement of the previous FOM Rule.

2. CUD's Position

CUD argues that the entire state of Texas is not a single political jurisdiction as indicated in the application, because 7 Texas Administrative Code section 91.101(a) defines a political jurisdiction as a "city or a county, or a portion thereof." Mr. Etheridge testified that if CTCU had checked the correct box on the application, it would have been prompted to provide a narrative "demonstrating how the proposed geographic community of interest is based on a clearly defined and specific geographic area where persons have common interest and/or interact." Mr. Etheridge therefore concluded the application did not provide sufficient detail

[22] 46 Tex. Reg. 7873-74 (Nov. 19, 2021).

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about the unifying characteristics among prospective members in all 254 counties in Texas.

CUD has never granted a FOM expansion to all 254 counties in Texas. According to Mr. Etheridge, approving CTCU's proposed expansion would set a precedent for other credit unions to also apply for statewide expansion, which would undermine the unifying nature of the community of interest requirement. A common bond among members is one of the defining characteristics of a credit union. State regulations uphold common bond requirements among members of credit unions "to promote their safety and soundness and allow access to credit to persons otherwise unable to borrow."[23]

CUD asserts that the rule amendment did not affect the Commissioner's ability to consider prospective members' proximity to a physical branch in a FOM expansion application. The amendment simply enabled the Commissioner to consider digital service offers as one of several factors in determining a credit union's ability to provide service that is responsive to the convenience and needs of prospective members. CUD points out that the current rules still give the Commissioner discretion to impose a geographical limitation on any group.[24]

The rule amendment reflected federal statutory and regulatory changes which loosened requirements that limited a community credit union to a "well-defined *local*

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[23] *See Nat'l Credit Union Admin. v. First Nat. Bank & Tr. Co.*, 522 U.S. 479, 493 n.6 (1998).

[24] 7 Tex. Admin. Code § 91.301(a).

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community, neighborhood, or rural district."[25] The court noted that the National Credit Union Administration (NCUA) had "struck a balance by ensuring that members within the local community maintain somewhat of a commuter relationship with each other."[26] CUD urges that it seeks a similar balance in expanding beyond small, local footprints while retaining the principle that members share unifying geographic characteristics.

3. ALJ's Analysis

Whether CUD has ever approved a FOM that encompasses a geographic community of interest of all 254 counties in the State of Texas is not determinative of whether CTCU's Application meets statutory and regulatory requirements. The geographic area requirement is met if the area to be served is in a recognized single political jurisdiction.[27] The rule does not require the geographic area to be a city or county. The rule provides "a city or a county, or a portion thereof" as *examples* of political jurisdictions, but not an exhaustive list.[28] Accordingly, the State of Texas is a recognized single political jurisdiction and fulfills the geographic area requirement. Texans have unifying characteristics, mutual interests, common interests, and interact regularly with each other. The Group shares economic, social, and cultural ties. The record does not establish any inability to serve a larger group or other

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[25] *Am. Banks Ass'n v. Nat'l Credit Union Admin.*, 934 F.3d 649, 657-58 (D.C. Cir. 2019) (quoting 12 U.S.C. § 1759(b)). *See also* 81 Fed. Reg. 88440 (Dec. 7, 2016) (explaining the meaning of "well-defined local community").

[26] *Am. Bankers Ass'n*, 934 F.3d at 666.

[27] 7 Tex. Admin. Code § 91.101(a)(7)(C).

[28] *See* 7 Tex. Admin. Code § 91.101(a)(7)(C). *Compare with* 12 U.S.C. § 1759(b)(3) describing a membership field based on community as "[p]ersons or organizations within a well-defined local community, neighborhood, or rural district."

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operational or management concerns to warrant a geographic limitation of the Group.[29]

The ALJ finds that CTCU's requested expansion of the FOM would further the stated goals of the rule amendment. Notably, the rule amendment eliminated the "local service area" requirement from subsection (a) of the FOM Rule but did not add "local service area" to the list of consideration factors in subsection (g). While CUD references interpretations of the federal "local community" requirement, the current Texas statutes and rules do not include any "local" requirement. The credit unions' fields of membership are no longer limited to a "local service area" of "contiguous political subdivisions within reasonable proximity of a credit union's offices." Therefore, the ALJ finds that the Group encompassing all 254 counties in Texas has adequate unifying characteristics and a mutual interest such that the safety and soundness of the credit union is maintained.

B. SERVICE RESPONSIVE TO THE CONVENIENCE AND NEEDS OF PROSPECTIVE MEMBERS

The Commissioner shall consider whether service by the credit union is responsive to the convenience and needs of prospective members.[30]

[29] *See* 7 Tex. Admin. Code § 91.301(a).

[30] 7 Tex. Admin. Code § 91.301(g)(3).

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1. "Prospective Members"

CUD points out that most of the prospective members in the proposed FOM would not have adequate access to in-person facilities, because CTCU only has a physical presence in Smith County. CUD contends that any prospective member should have adequate access to all of CTCU's services, not just the digital services.

CUD contends that "prospective members" in the context of 7 Texas Administrative Code section 91.301(g) means persons who can become members because they live, work, worship, or attend school within the expanded geographic community of interest. In contrast, CTCU's interprets "prospective members" to be "those persons likely or expected to become members of CTCU" according to their willingness to use digital or remote services.

CTCU acknowledges that it cannot provide services that will be responsive to the convenience and needs of *every* person within the Group that it seeks to add to its field of membership. However, CTCU points out that the statutory and rule requirements required services responsive to the convenience and needs of "prospective members," not "all individuals" or "all potential members" within the Group.

CTCU's target market—which also comprises the majority of its current members—will be the middle-income market of persons between the ages of 35 and 55 or older, with average household incomes of $50,000 to $125,000, who have children and are interested in basic checking account services, debit and credit cards, loans (specifically, auto loans), basic retirement services like individual retirement

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accounts, certificates of deposit, high-yield savings accounts, and second mortgages.[31] Persons in this demographic are more mobile-driven or technology-driven than others.[32]

The ALJ agrees with CTCU that the rule does not require CTCU to be responsive to the convenience and needs of *all* potential members of the Group. This interpretation is consistent with the rule amendment's stated purposes, which include allowing the consideration of an institution's ability to provide financial services through digital channels to meet the needs of its membership. There are prospective members in the 254 counties of Texas who are interested in using digital financial services. Within this context, a prospective member of CTCU would be a person within the Group that is interested in the digital services that CTCU offers.

2. Digital and Remote Services

a) CTCU's Position

CTCU contends that the presence of a physical branch in the geographic area it seeks to serve is not determinative of whether the services are responsive to the convenience and needs of prospective members. CTCU seeks to serve the 254 Texas counties through digital channels, telephonic, and postal communications, an expansive automated teller machine (ATM) network, and physical, in-person services at CTCU's three branches located in Smith County. CTCU will provide

[31] Pet. Ex. 8 at 41-42.

[32] Pet. Ex. 8 at 42.

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prospective members with conversational artificial intelligence and online and mobile banking, supported by a recently implemented open-source core data processor.[33] CTCU currently provides services, including personal loans, spending accounts, and online banking solutions, to meet the convenience and needs of its members in 437 Texas cities, including El Paso and Amarillo, as well as members residing in Washington state and Florida. According to CTCU, its existing and planned digital service offerings, ATM solutions, additional staff, and conversion of in-branch service providers to roles developing digital infrastructure will allow it to serve the expected growth in its membership with the addition of the Group to its FOM.[34]

CTCU urges that its Application shows it is responsive to the convenience and needs of persons who live, work, worship, or attend school in all Texas counties that are likely or expected to join a credit union that provides financial services digitally, telephonically, through and expansive ATM network, and through traditional mail, that also maintains physical locations in Smith County.

b) CUD's Position

CUD argues that CTCU failed to demonstrate that it can provide service responsive to the convenience and needs of prospective members in the proposed FOM. The remote and digital offerings CTCU has listed are typical industry offerings and practice. Additionally, the Commission Order recognized that "[t]he

[33] Joint Ex. 1 at 175.

[34] Joint Ex. 1 at 156-57.

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convenience and needs of prospective members include the need for credit services as well as deposit services."[35] According to Mr. Etheridge, the Application provided only a "limited and broad and vague" description of the services that it could offer prospective members, without indicating an ability to offer important credit products (such as auto, real estate, and home equity loans) or deposit products (such as share accounts, certificates of deposits, money market accounts, and IRA accounts). Mr. Etheridge opined that it would not be possible for a credit union to offer the full set of these services without providing members reasonable access to a physical branch location.

CUD points out that the Application indicated CTCU participates in a shared network of ATMs that members can use without a surcharge.[36] However, the Application did not identify the locations of the ATMs, and Mr. Miller could not confirm that each county CTCU seeks to expand to contains at least one participating ATM.

c) ALJ's Analysis

No evidence was presented of any CUD rule or policy that outlines which credit or deposit products a credit union must provide to prospective members. Moreover, the ALJ is not convinced that credit and deposit products must be offered through a physical branch location. The ALJ finds that CTCU's digital services (personal loans, spending accountings, and online and mobile banking solutions)

[35] Joint Ex. 2 at 3.

[36] Joint Ex. 1 at 7.

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support its ability to provide service that is responsive to the convenience and needs of prospective members.

3. Financial Ability

a) CUD's Position

CUD asserts that CTCU failed to show it had the financial ability to support the proposed FOM expansion based on its financial data.[37] The standard application to amend bylaws requires an applicant credit union to provide a three-year budget and supporting financial information, including "any assumptions or projection figures used in preparing the budget."[38] According to CUD, CTCU provided estimated budget projections but failed to provide sufficient supporting information to explain how it prepared the budget or any balance sheet data.[39] The Application did not include any data about its net worth to asset ratio, delinquency ratio, net charge-off ratio, or return on average assets. CUD also contends that CTCU provided an inadequate explanation of how it planned to accomplish the proposed expansion because it did not include a strategic business plan, granular data for its products, or a comprehensive marketing plan.

Mr. Etheridge described CTCU's net income figures of $20,000 in its projected 2022-24 budget as "minuscule . . . for a $140 million institution." CTCU

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[37] *See* Joint Ex. 1 at 16.

[38] *See* Joint Ex. 1 at 47.

[39] *See* Joint Ex. 1 at 55-57.

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anticipated adding 4,800 members (a projected membership growth of approximately 66%) that would presumably lead to a proportional increase in assets due to new members' deposits. According to Mr. Etheridge, the asset increase would significantly "dilute" CTCU's net worth to total asset ratio, with the comparatively low projected net income growth.

The quarterly financial performance reports (which are publicly available) that CTCU submitted to NCUA showed a loss of nearly $500,000 in the two quarters before CTCU submitted its Application. This negative trend continued into the following quarter, when CUD was reviewing the Application.[40] Thus, Mr. Etheridge was concerned that CTCU's expansion was either financially infeasible or that CTCU would be unable to operate in a way that would serve the convenience and needs of prospective members.

CUD points out in post-hearing briefing that CTCU filed modifications to the financial report with NCUA on May 17, 2024, after the SOAH hearing. The modifications altered key ratios for the quarter ending December 2023, including an increase to delinquent loans balances. The delinquent loan values that CTCU submitted prior to the hearing were more favorable to CTCU than the actual (modified) values. After the modification, CTCU's "delinquent loans / total loans" ratio as of December 2023 was 0.93, with a peer average of 0.72.[41] Prior to the modification, CTCU indicated a delinquent loan ratio of 0.53.[42] A high delinquent

[40] Resp. Ex. 3-b.

[41] Resp. Ex. 6 at 10; Pet. Ex. 5 at 1.

[42] Pet Ex. 5.

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loan value indicates poor asset quality and unpaid loans comprising a larger portion of the credit union's business. CUD contends that this increase pushed the ratio above the peer average. Similarly, the modification pushed CTCU's "delinquent loans / net worth" ratio from 4.64, which was slightly above peer average of 4.42, to 8.14.[43]

b) CTCU's Position

CTCU asserts that it is financially capable of expanding its FOM to 254 counties because it is well-capitalized and positioned to take full advantage of the opportunities that the expanded FOM will provide for additional revenue and profit. As of March 2022, CTCU had an average profitability of $224 per member, and in 2023, CTCU had net income of $292,612 as of December 2023.[44] Mr. Miller attributed the net loss in 2022 to loss on investments and loan loss. CTCU plans to expand the number of members: 900 in the first year; 1,800 in the second year; and 2,100 in the third year. CTCU plans to maintain the assets in equivalent level, so the return on assets will increase along with CTCU's net worth.[45] At the end of 2023, CTCU had a net worth ratio of 8.15%, and any net worth ratio over 7% is considered well-capitalized.[46] At the time of hearing, CTCU's net worth ratio was approximately 8%. While no additional expenses are expected if the FOM expansion is approved, additional expenses would be incurred if the membership rose to a level

[43] Pet. Ex. 5; Resp Ex. 6 at 3.

[44] Pet. Ex. 7 at 2; Pet. Ex. 6 at 1.

[45] Pet. Ex. 8 at 58-59; Joint Ex. 1 at 157.

[46] Pet. Ex. 5 at 1; Resp. Ex. 4-a at 583.

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that would require additional staff hires, and to cover the per-application fees charged for online loan and deposit accounts that may increase.[47] CTCU argues that it has the financial capacity to grow its membership profitably and that this sustainable growth and profitability would be in the best interests of its members.

CTCU points out that the amount of delinquent loans compared to total loans at CTCU went down considerably from March to April 2024, as did the total dollar amount of delinquent loans held by CTCU.[48] Despite any temporary changes to financial ratios, CTCU has remained above NCUA's standard for being well-capitalized.[49]

c) ALJ's Analysis

Although CUD focused heavily on CTCU's financial situation, it is unclear how CTCU's financial situation would prevent it from providing service that is responsive to the convenience and needs of prospective members. The financial information in the record includes many metrics; CTCU performed better in some and worse in others. CUD points out the higher-than-average delinquent loan ratio. However, CUD did not establish any maximum delinquent loan ratio threshold for credit unions seeking FOM amendments. Additionally, it is unclear how this metric would affect CTCU's ability to provide service to prospective customers. CUD criticized CTCU's "miniscule" 2023 and 2024 projected annual net income of

[47] Pet. Ex. 8 at 63.

[48] Pet. Ex. 9 at 74.

[49] Pet. Ex. 8 at 59; Resp. Ex. 6 at 3; *see* 12 C.F.R. § 702.102.

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$20,000; however, a non-profit credit union's low net income does not necessarily detract from its ability to provide service that is responsive to the convenience and needs of prospective members.

It is undisputed that CTCU, based on its net worth ratio, meets NCUA's standard for being well-capitalized. CTCU does not anticipate any additional expenses associated with the expanded FOM, aside from additional staffing that may be needed to serve additional members. Therefore, the ALJ finds that CTCU is able to provide service that is responsive to the convenience and needs of prospective members.

C. OTHER REQUIREMENTS

The Commissioner shall also consider: the ability of credit unions to maintain parity and to compete fairly with their counterparts; protection for the interest of current and future members of the credit union; and the encouragement of economic progress in this State by allowing opportunity to expand services and facilities.[50] These consideration factors were generally uncontested by CUD.

The credit unions are able to maintain parity and compete fairly with their counterparts.[51] CTCU does not plan to solicit business from every person who lives, attends school, worships, or works in each Texas county. CTCU intends to utilize a targeted marketing campaign to attempt to grow its membership through persons in

[50] 7 Tex. Admin. Code § 91.301(g)(2), (4)-(5).

[51] *See* 7 Tex. Admin. Code § 91.301(g)(2); *see* Joint Ex. 2 at 3, Finding of Fact No. 10.

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these counties who desire financial products and services through predominantly digital channels, either through mobile application or web browser. Customer and technical support will be available to prospective members via telephone.[52]

The expansion of the FOM would protect the interest of current and future members of the credit union.[53] The expansion would enhance the CTCU's economic and financial stability and ensure its long-term safety and soundness.[54] Additionally, the character and size of the field of membership to be served by the credit union favor CTCU's economic viability.[55]

Expansion of the FOM will encourage economic progress in this state by allowing CTCU the opportunity to expand services and facilities.[56] CTCU continues to develop and create additional digital solutions, including remote account management tools, user-friendly mobile apps, online loan and account applications, and conversational artificial intelligence.[57]

IV. RECOMMENDATION

After consideration of the evidence and applicable law, the ALJ recommends that CTCU's Application be granted without modification, expanding CTCU's

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[52] Pet. Ex. 8 at 10-12.

[53] *See* 7 Tex. Admin. Code § 91.301(g)(4).

[54] Resp. Ex. 4-a at 583.

[55] *See* Tex. Fin. Code § 122.006(a)(2)(B).

[56] *See* 7 Tex. Admin. Code § 91.301(g)(5).

[57] Joint Ex. 1 at 156.

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FOM to a geographic community of interest which encompasses all 254 counties in the State of Texas.

V. FINDINGS OF FACT

1. On May 5, 2022, Cooperative Teachers Credit Union (CTCU) filed an application to amend its by-laws (Application), seeking to expand its field of membership (FOM) to a include an additional group, consisting of all 254 counties within the State of Texas (the Group).

2. On August 8, 2022, the commissioner (Commissioner) of the Texas Credit Union Department (CUD) issued an Order Approving Application with modifications, which permitted CTCU's FOM to comprise of nine counties (Smith County, plus eight additional counties near Smith County), rather than all 254 counties in Texas.

3. On September 22, 2022, CTCU requested a hearing to contest the Commissioner's Order.

4. On December 7, 2024, CUD submitted a Request to Docket to the State Office of Administrative Hearings (SOAH), referring the matter to for a contested case hearing.

5. On February 9, 2024, the Administrative Law Judge (ALJ) issued Order No. 2, setting the hearing and providing participation instructions.

6. Together, the Request to Docket and Order No. 2 contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.

7. The hearing on the merits convened via videoconference on May 13, 2024, before Administrative Law Judge Linda Brite of SOAH. Attorney Casey Bell represented CTCU. Attorneys Zachary Rhines and Reuben Blum represented

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the CUD. The record closed on June 20, 2024, after submission of written closing briefs.

8. CTCU's proposed FOM of the entire State of Texas is unprecedented for Texas-chartered credit unions.

9. CTCU maintains its principal place of business in Smith County, Texas.

10. CTCU serves its current members through a website, mobile banking, physical branch, and a nationwide ATM network.

11. The Group has unifying characteristics and mutual interests.

12. The State of Texas is a recognized single political jurisdiction.

13. There are prospective members in the 254 counties of Texas who are interested in using digital financial services.

14. CTCU offers current members—and plans to provide future members—services through remote account management tools, user-friendly mobile apps, online loan and account applications, and conversational artificial intelligence.

15. CTCU is well-capitalized based on its net worth ratio, per National Credit Union Administration standard.

16. CTCU is able to provide service that is responsive to the convenience and needs of prospective members.

17. Remote and mobile banking services are responsive to some prospective members' convenience and needs.

18. The credit unions are able to maintain parity and compete fairly with their counterparts.

19. The expansion of the FOM would protect the interest of current and future members of CTCU.

20. Expansion of the FOM will encourage economic progress in this state by allowing CTCU the opportunity to expand services and facilities.

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VI. CONCLUSIONS OF LAW

1. CUD has jurisdiction over the Application. Tex. Fin. Code §§ 122.005, .011; 7 Tex. Admin. Code § 91.202.

2. SOAH has the authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.

3. Sufficient notice of the hearing was provided. Tex. Gov't Code §§ 2001.051-.052.

4. Applicant CTCU bears the burden of proving each of the statutory and regulatory requirements for approval by a preponderance of the evidence. 7 Tex. Admin. Code § 93.303(b); 1 Tex. Admin. Code § 155.427.

5. The Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained. 7 Tex. Admin. Code § 91.301(g)(1).

6. Credit unions will be able to maintain parity and compete fairly with their counterparts. 7 Tex. Admin. Code § 91.301(g)(2).

7. CTCU is able to provide service that is responsive to the convenience and needs of prospective members. 7 Tex. Admin. Code § 91.301(g)(3).

8. Expansion of the FOM will protect the interest of current future members of CTCU. 7 Tex. Admin. Code § 91.301(g)(4).

9. Expansion of the FOM encourages the economic progress in this State by allowing opportunity to expand services and facilities. 7 Tex. Admin. Code § 91.301(g)(5).

10. The Commissioner should approve the Application without modification.

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Signed August 14, 2024

ALJ Signature:

Linda Brite
Presiding Administrative Law Judge

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6. Update regarding procurement of internal audit services

Background

At its August 2026 meeting, the Commission authorized Commissioner Etheridge to take steps to procure internal audit services within certain budgetary parameters. Devon Bijansky will provide an update on that process.

No action is anticipated.

7. Commissioner's report – Commissioner Robert Etheridge:
    a. Department's FY 2026 budget and financial performance
    b. Department operational status and accomplishments
    c. Employee/team highlights

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.

No action is anticipated.

Credit Union Department
BY 2026 Budget Analysis
For the Period Ended 08/31/26 Final m13

	BY 2026 Budget	BY 2026 YTD Budgeted	BY 2026 YTD Actual	Budget Variance	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	$6,208,420	$6,208,420	$5,612,041	($596,379)	90%
Out-of-State Branch Fees	$0	$0	$20,000	$20,000	100%
Examination Fees	$0	$0	$107,738	$107,738	
Application Fees	$0	$0	$0	$0	
Penalties	$0	$0	$2,656	$2,656	
Open Records Revenue	$0	$0	$212	$212	
Other	($100,000)	($100,000)	($100,000)	$0	
Operating Income Subtotal	**$6,108,420**	**$6,108,420**	**$5,642,646**	**($465,774)**	92%
Interest Income (Operating Acct)	$0	$0	$113,227	$113,227	
Interest Income (Contingency Acct)	$0	$0	$56,384	$56,384	
TOTAL REVENUES - FUNDS AVAILABLE TO COVER EXPENDITURES	**$6,108,420**	**$6,108,420**	**$5,812,257**	**($296,162)**	**95%**
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$3,788,922	$3,816,422	$3,629,950	$186,472	95%
Employee Benefits	$1,138,543	$1,138,543	$1,108,272	$30,271	97%
Total Personnel Expenses	**$4,927,464**	**$4,954,964**	**$4,738,222**	**$216,743**	**96%**
Travel Expenses:					
In State					
Examinations			$0		
Training/Conferences			$60,708		
Meetings			$2,142		
Public Forums			$0		
Other			$16,145		
Total In-State	$437,028	$437,028	$479,653	($42,626)	110%
Out-of-State	$12,500	$12,500	$8,519	$3,981	68%
Commission	$12,000	$12,000	$6,790	$5,210	57%
Total Travel Expenses	**$461,528**	**$461,528**	**$494,962**	**($33,434)**	**107%**
Other Operating Expenses:					
Communication/Utilities	$56,339	$56,339	$52,069	$4,270	92%
Professional Services/Fees	$229,500	$229,500	$253,070	($23,570)	110%
Supplies/Materials	$109,000	$109,000	$58,842	$50,158	54%
Printing and Reproduction	$1,000	$1,000	$175	$825	17%
Repairs/Maintenance	$54,240	$54,240	$11,420	$42,820	21%
Rentals and Leases	$4,500	$4,500	$4,387	$113	97%
Other Operating	$264,850	$264,850	$154,458	$110,392	58%
Total Other Operating Expenses	**$719,429**	**$719,429**	**$534,422**	**$185,007**	74%
TOTAL EXPENDITURES	**$6,108,421**	**$6,135,921**	**$5,767,605**	**$368,316**	**94%**
REMAINING FUNDS TO COVER EXPENDITURES (Actuals)			**$44,653**		

8. Report on the status of the state credit union system – Deputy Commissioner David Borden

Background
Deputy Commissioner Borden will present the report.

No action is anticipated.

STATUS OF THE STATE CREDIT UNION SYSTEM

Overview:

The Texas credit union system continued to demonstrate resilience and steady improvement through the first half of 2026. Supported by a solid Texas economy and strengthened financial performance, state-chartered credit unions remain well positioned to meet the financial needs of their members. As of June 30, 2026, the 157 Texas-chartered credit unions reported higher profitability, stronger capital levels, measured balance sheet growth, and stable asset quality, collectively reinforcing the system's sound financial condition.

Economic Update:

The Texas economy remained one of the nation's stronger-performing states in 2026, maintaining steady growth and generally matching or modestly outpacing U.S. trends despite broader national moderation.

Gross Domestic Product (GDP):
Texas and the U.S. economies continued to expand at a moderate pace through the first half of 2026. Texas real GDP reached an annualized $2.38 trillion in the second quarter, up 1.7 percent from a year earlier, supported by steady gains in consumer spending, private investment, and exports. Nationally, U.S. real GDP grew at a 2.2 percent annualized rate in the second quarter with similar underlying drivers. Both Texas and the broader U.S. economy remained on a path of modest but positive growth, consistent with trends observed throughout 2025.

Labor market:
Labor market conditions were stable in Texas and nationally as of June 2026. Texas posted a 4.4 percent unemployment rate and added approximately 43,400 jobs during the month, contributing to a gain of about 178,000 jobs over the past year, an increase of 1.2 percent. Nationally, the unemployment rate held at 4.2 percent, with nonfarm employment rising by a modest 57,000 jobs in June and by roughly 414,000 jobs over the year, a 0.3 percent increase. Texas continued to outpace the national labor market, with job growth meaningfully exceeding the U.S. rate and signaling comparatively stronger underlying employment conditions.

Inflation:
Core inflation in Texas and nationally remained moderate in June 2026. Texas's core Consumer Price Index rose 2.6 percent over the year, in line with the national core CPI, which also increased 2.6 percent. Nationally, the pace of core inflation eased from May, reflecting cooling price pressures across several categories. Overall, both Texas and U.S. measures indicate continued progress toward more stable underlying inflation conditions.

Housing:
Texas's housing market continued to stabilize in June, moving toward more balanced conditions than in recent years. The state's median home price declined 2 percent year over year to $342,900, while the U.S. median price rose 1.8 percent to $446,400. Texas recorded 5.4 months of supply and an average of 62 days on market, compared with 4.6 months of supply and a 28-day median nationally. Overall, both markets are normalizing, with Texas displaying slightly less tight conditions than the nation.

Outlook:
Texas is expected to maintain moderate economic expansion through the second half of 2026, with real GDP growth projected between 1.7 and 2.2 percent, broadly in line with national expectations. Employment growth is forecast at approximately 2.0 percent for the year, supported by balanced labor market conditions and steady sectoral momentum. Core inflation is anticipated to remain near 2.6 percent in both Texas and the U.S., contributing to stable underlying price dynamics. The state's outlook is reinforced by sustained consumer spending, private investment, construction and energy activity, and the rapid expansion of AI-related data centers. Although external risks persist, including interest-rate uncertainty, trade volatility, and geopolitical pressures, Texas enters the latter half of 2026 in a comparatively strong position, continuing to outperform the nation on key growth fundamentals.

Industry Performance:

Texas-chartered credit unions continue to demonstrate sound financial condition, underpinned by strengthened earnings performance, enhanced capital levels, measured balance sheet growth, and stable credit risk indicators.

Earnings Performance: Profitability strengthened year-over-year, driven by improved net interest margins and reduced credit loss provisions. The return on average assets (ROAA) rose from 0.67 percent in the second quarter of 2025 to 0.84

percent in the second quarter of 2026. The net interest margin widened to 3.63 percent, up from approximately 3.48 percent, reflecting modestly higher interest income, along with lower interest expense. Year-to-date net income increased to $262.4 million from $200.6 million, supported by an approximate 10 percent annualized reduction in the provision for credit losses and stable non-interest expenses, which remained at 3.72 percent of average assets.

Capital Adequacy: Texas credit unions continue to demonstrate a strong capital position. The aggregate net-worth ratio increased from 11.59 percent as of June 2025 to 11.84 percent as of June 2026, reflecting sustained balance-sheet resilience. The risk-based capital ratio also improved, rising from 13.71 percent to 13.84 percent, indicating strengthened capacity to absorb potential losses under varying risk conditions. Total equity expanded by $561 million over the period, further reinforcing the system's overall capital stability.

Growth Trends: Balance-sheet expansion continued at a measured pace over the period. Aggregate total assets increased from $60.10 billion as of June 2025 to $62.66 billion as of June 2026, representing growth of approximately 4.26 percent. Total loans rose from $43.63 billion to $45.44 billion, an increase of 4.2 percent, reflecting sustained member borrowing activity. Shares and deposits expanded from $50.80 billion to $52.40 billion, up 3.1 percent year-over-year, indicating continued member confidence and stable funding inflows.

Credit Risk: Overall asset quality metrics remained stable during the period. The delinquency ratio declined from 0.97 percent as of June 2025 to 0.88 percent as of June 2026, indicating improved near-term payment performance. The rolling 12-month net charge-off ratio increased modestly, rising from 0.81 percent to 0.83 percent, but remained within a manageable range.

Real estate credit performance exhibited mixed trends. Delinquencies for all real estate loans 60 days or more past due decreased from 1.24 percent to 1.13 percent, while delinquencies within the 1- to 4-family residential segment rose slightly to 1.19 percent. These developments warrant continued monitoring, particularly given the influence of higher borrowing costs and softening property valuations in certain Texas markets, which may place additional pressure on real estate portfolios.

Overall, state-chartered credit unions enter the latter half of 2026 with solid financial performance and stable risk profiles. Continued vigilance in monitoring economic and credit conditions remains essential to safeguarding the interests of the more than 4 million members served by Texas credit unions.

Key Ratio	2020	2021	2022	2023	2024	2025	2026
Net Worth/Total Assets	10.36	10.43	10.91	11.33	11.53	11.63	11.84
Delinquent Loans/Total Loans	0.75	0.52	0.61	0.81	1.02	1.01	0.88
Net Charge-Offs/Avg. Loans	0.57	0.37	0.37	0.59	0.80	0.85	0.83
Return on Average Assets	0.70	1.08	0.96	0.69	0.54	0.73	0.84

PROBLEM INSTITUTIONS:

As of June 30, 2026, there were 23 credit unions assigned a composite CAMELS rating of 3 or higher, which is an increase of 4 credit unions from December 31, 2025. These institutions represent 14.65 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, 23 state-chartered credit unions reported net losses of $3.8 million, while the remaining 134 credit unions reported aggregate net income of $266.1 million. The profitability breakdown of credit unions, by asset category, is as follows:

Assets Size	# of CUs	# Profitable	% Profitable (06-30-2026)	% Profitable (12-31-2025)	% Profitable (12-31-2024)	% Profitable (12-31-2023)
$1 Billion & over	20	19	95%	90%	100%	100%
$500 to $999.9 Million	14	14	100%	100%	81%	80%
$250 to $499.9 Million	12	10	83%	92%	69%	100%
$100 to $249.9 Million	22	20	91%	86%	84%	88%
$50 to $99.9 Million	20	20	100%	95%	100%	85%
$10 to $49.9 Million	41	35	85%	86%	88%	89%
Under $10 Million	28	16	57%	87%	77%	59%
Totals	157	134	85%	88%	87%	86%

ENFORCEMENT ISSUES:

As of June 30, 2026, 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**

RECOMMENDED ACTION:

No formal action is anticipated.

9. Future Commission meetings – dates, agenda items, and arrangements
    - Friday, March 5, 2027
    - Friday, August 6, 2027

10. Adjourn