CREDIT UNION COMMISSION
RULES COMMITTEE MEETING

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

Thursday, November 5, 2026
10:00 a.m.

AGENDA

This meeting of the Credit Union Commission's Rules Committee ("Committee") 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 Committee is permitted, but the Committee cannot deliberate or address any item that is not specifically listed on the agenda. Unless authorized by a majority of Committee 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 Committee may discuss and/or take action regarding any item on this agenda.

	Page
1. Call to order – Chair David Shurtz a. Ascertain quorum b. Appoint recording secretary c. Acknowledge guests d. Invitation for public input	3
2. Approve minutes of the August 6, 2026, Committee meeting	4
3. Rulemaking Matters	
a. Recommend to the Commission 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	12
ii. 7 TAC Chapter 91, Subchapter F:	15

A. Section 91.608, Confidentiality of Member Records
B. Section 91.610, Safe Deposit Box Facilities

b. Recommend to the Commission proposal of amendments to:
   i. 7 TAC Section 91.101, Definitions 19
   ii. 7 TAC Section 91.601, Share and Deposit Accounts 29
   iii. 7 TAC Chapter 91, Subchapter H: 33
      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
   iv. 7 TAC Section 91.902, Dividends 40

c. Recommend to the Commission adoption of rule review and readoption of rules in 7 TAC Chapter 91, Subchapters H and I 44

4. Future Committee Meetings – dates, agenda items, and arrangements 46
   - Thursday, March 4, 2026
   - Thursday, August 5, 2027

5. Adjourn

Note: This is a meeting of the Rules Committee of the Credit Union Commission; however, there may be other members of the Credit Union Commission attending this meeting. As there could be a quorum of the Commission attending this meeting of the Rules Committee, it is also being posted as a meeting of the entire Commission.

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

Meeting Recess: In the event the Committee does not finish its meeting on the first day for which it was posted, the Committee may 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 David Shurtz
    a. Ascertain quorum
    b. Appoint recording secretary
    c. Acknowledge guests
    d. Invitation for public input

Rules Committee

David Shurtz, Chair

Becky Ames

Sara Jones Oates

Jim Minge, ex-officio

Staff

Robert Etheridge, Commissioner

Devon Bijansky, General Counsel

David Borden, Deputy Commissioner

Isabel Velasquez, Executive Assistant

2. Approve minutes of the August 6, 2026, Committee meeting

Staff recommendation

Approve the minutes as presented.

Recommended motion

I move that the minutes of the Committee's August 6, 2026, meeting be approved as presented.

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

August 6, 2026

1. CALL TO ORDER – Chairman David Shurtz called the meeting to order at 1:00 p.m. pursuant to Chapter 551 of the Texas Government Code and declared that a quorum was present. Committee members Becky Ames, Sara Jones Oates, and ex-officio member Jim Minge was present. Staff members in attendance were Commissioner Robert W. Etheridge, Deputy Commissioner David C. Borden, General Counsel Devon Bijansky, and Executive Assistant Isabel Velasquez. The Chair 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# 2026004465)**.

- **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chair Shurtz invited public input on matters regarding rulemaking for future consideration by the committee. There was none.

2. APPROVE MINUTES OF PREVIOUS MEETING (March 26, 2026) – Mrs. Oates moved to approve the minutes of the March 26, 2026, meeting as presented. Mrs. Ames seconded the motion, which passed unanimously.

3. RULEMAKING MATTERS: Chair Shurtz announced that the committee will discuss the rules; however, will be removing 7 TAC Section 91.601 (Share and Deposit Accounts) from today's packet and agenda, and there will not be any discussion on this rule at this time.

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a. Recommend to the Commission adoption or other action on amendments to:

i. 7 TAC Section 91.1003, Mergers/Consolidations – Chair Shurtz reported the Department received two comments in support of the amendments as proposed.

Mrs. Oates moved that the Committee recommend adoption of the amendments to **7 TAC Section 91.1003** as proposed. Mrs. Ames seconded the motion, which passed unanimously.

ii. 7 TAC Chapter 91, Subchapter G:

A. Section 91.709, Member Business and Commercial Loans.

B. Section 91.714, Leasing.

Chair Shurtz reported the Department received no comments in response to the proposed amendments.

Mrs. Oates moved that the Committee recommend adoption of the amendments to **Sections 91.709, Member Business and Commercial Loans and 91.714 Leasing** as proposed. Mrs. Ames seconded the motion, which passed unanimously.

iii. 7 TAC Chapter 95, Subchapter A:

A. Section 95.105, Reporting

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B. Section 95.108, Examinations

C. Section 95.110, Enforcement; Penalty; and Appeal

Chair Shurtz reported the Department received no comments in response to the proposed amendments.

Mrs. Ames moved that the Committee recommend adoption of the amendments to **Sections 95.105, Reporting, 95.108 Examinations, and 95.110, Enforcement; Penalty; and Appeal** as proposed. Mrs. Oates seconded the motion, which passed unanimously.

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

Chair Shurtz reported the Department received no comments in response to the proposed amendments.

Mrs. Oates moved that the Committee recommend adoption of the amendments to **Sections 95.302, Powers, 95.305 Audited Financial Statements; Accounting Procedures; Reports and 95.310, Fees and Charges** as proposed. Mrs. Ames seconded the motion, which passed unanimously.

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b. Recommend to the Commission adopt the repeal of 7 TAC Section 95.109, Fees and Charges.

Chair Shurtz reported the Department received no comments in response to the proposed repeal.

Mrs. Ames moved that the Committee recommend repeal of **7 TAC Section 95.109, Fees and Charges**. Mrs. Oates seconded the motion, which passed unanimously.

c. Recommend to the Commission proposal of amendments to:

i. 7 TAC Chapter 91, Subchapter E:

A. Section 91.501, Director Eligibility and Disqualification.

B. Section 95.502, Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.

Chair Shurtz reported that these amendments are the result of the Department's rule review process. 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 added that Section 91.501 simply allows the applications of elected appointed directors to be part of the minutes of the board

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meeting immediately preceding this election/appointment or the board meeting following their election appointment.

Mrs. Oates moved that the Committee recommend that the Commission propose the amendments to **7 TAC Sections 91.501 and 91.502**. Mrs. Ames seconded the motion, which passed unanimously.

ii. 7 TAC Chapter 91, Subchapter F:

A. Section 91.601 Share and Deposit Accounts (*removed from discussion*).

B. Section 91.608, Confidentiality of Member Records.

C. Section 91.610, Safe Deposit Box Facilities.

Chair Shurtz reported that the amendments to Section 91.608 would update a reference to the federal regulations. The amendments to Section 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 added that in Section 91.610 we are removing quite a bit of language. The statute says that a report on a deface safe deposit box key must be reported to DPS within 10 days on a form prescribed by the commissioner and we are recommending removal of the form from the rule and it will be placed on our website.

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Mrs. Oates moved that the Committee recommend that the Commission propose the amendments to **Sections 91.608, and 91.610**. Mrs. Ames seconded the motion, which passed unanimously.

d. Recommend to the Commission of rule review and readoption of rules in 7 TAC Chapter 91, Subchapter E and F.

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 reviewed the above-referenced subchapters, believe 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 on 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.

Mrs. Ames made a motion to recommend that the Commission find that the reasons for adopting **7 TAC Chapter 91, Subchapters E and F** continue

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to exist and readopt the rules in these subchapters. Mrs. Oates seconded the motion, which passed unanimously.

4. FUTURE COMMITTEE MEETING DATES – Chair Shurtz announced the next meeting of the Committee has been tentatively scheduled for November 5, 2026, and March 4, 2027.

5. ADJOURN - There being no further business, Chair Shurtz adjourned the meeting at 1:20 p.m.

_____	_____
David Shurtz	Isabel Velasquez
Chair	Recording Secretary

Distribution:

Legislative Reference Library

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3. Rulemaking matters
   a. Recommend to the Commission 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

Recommend that the Commission adopt the amendments as proposed.

Recommended motion

I move that the Committee recommend adoption of the amendments to 7 TAC Sections 91.501 and 91.502 as proposed.

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.)

3. Rulemaking matters

a. Recommend to the Commission 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

Recommend that the Commission adopt the amendments as proposed.

Recommended motion

I move that the Committee recommend adoption of 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~~]

3. Rulemaking matters
   b. Recommend to the Commission 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

Recommend that the Commission propose the amendments as presented.

Recommended motion

I move that the Committee recommend proposal of 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.

3. Rulemaking matters
   b. Recommend to the Commission 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

Recommend that the Commission propose the amendments as presented.

Recommended motion

I move that the Committee recommend proposal of 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.~~]

3. Rulemaking matters
   b. Recommend to the Commission 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

Recommend that the Commission propose the amendments as presented.

Recommended motion

I move that the Committee recommend proposal of 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.)

3. Rulemaking matters
   b. Recommend to the Commission proposal of amendments to:

      iv. 7TAC 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

Recommend that the Commission propose the amendments as presented.

Recommended motion

I move that the Committee recommend proposal of 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.

3. Rulemaking matters

c. Recommend to the Commission adoption of rule review and readoption of rules in 7 TAC Chapter 91, Subchapters H and 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

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

Recommended motion

I move that the Committee recommend 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.

4. Future Committee Meetings – dates, agenda items, and arrangements
    - Thursday, March 4, 2026
    - Thursday, August 5, 2027

5. Adjourn