

**RULES COMMITTEE
MEETING MINUTES
JUNE 18, 2015**

A. CALL TO ORDER – Chairman Rob Kyker called the meeting to order at 2:00 p.m. in the conference room of the Credit Union Department office, Austin, Texas pursuant to Chapter 551 of the Government Code. Other members present included Missy Morrow and Kay Stewart. Sherri Merket and John Yoggerst were absent due to family and personal medical matters respectively. Commission Members Gary Janacek, Gary Tuma, and Vik Vad also attended the meeting. Assistant Attorney General Zindia Thomas was in attendance to serve as legal counsel. Staff members in attendance were Harold E. Feeney, Commissioner and Stacey McLarty, Assistant Commissioner and General Counsel. Chairman Kyker appointed Isabel Velasquez as recording secretary. The Chair also inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**June 9, 2015, TRD#2015003889**).

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

B. RECEIVE MINUTES OF PREVIOUS MEETING (June 19, 2014)

A motion was made and seconded to accept the minutes of the June 19, 2014 meeting as presented. The motion was unanimously adopted.

C. NEW BUSINESS

(a) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.802 Concerning Other Investments. Commissioner Feeney explained that the proposed amendments would add new definitions, clarify and amend existing terms in the rule and ensure that credit unions have parity with federal credit union investment authority.

After a short discussion, Ms. Morrow moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.802** concerning other investments. Ms. Stewart seconded the motion and the motion was unanimously adopted.

(b) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed 7 Section 91.803 Concerning Investment Limits and Prohibitions. Commissioner Feeney noted that a credit union may not invest more than 50% of its net worth with any single obligor or related obligor. He indicated that the proposed amendments would exclude from that limitation any deposits held by a Federal Reserve Bank or any investment insured or guaranteed by the United States Government. Mr. Feeney also explained that the proposed amendments would make substantive changes to the list of prohibited activities.

After a brief discussion, a motion was made and seconded to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.803** concerning investment limits and prohibitions. The motion was unanimously adopted.

(c) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.805 Concerning

Loan Participation Investments. Commissioner Feeney explained that this rule pertains to the purchase of a loan where the borrower is neither a member of the credit union nor member of another participating credit union. He noted that the proposed amendments would clarify the limitations applicable to the purchase of this type of loan participation.

After a short discussion, Ms. Stewart moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.805** concerning loan participation investments. Ms. Morrow seconded the motion and the motion was unanimously adopted.

Due to a technical issue related to information contain in the agenda packet on the member's iPads, the Chair rearranged the agenda and the Committee took up consideration of the re-adoption of Rules 91.801, 91.804, 91.808, and 91.902 before considering potential amendments to Rule 91.901.

(e) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Readopt 7 TAC Sections 91.801 (Investments in Credit Union Service Organizations), 91.804 (Custody and Safekeeping), 91.808 (Reporting Investment Activities to the Board of Directors), and 91.902 (Dividends). Commissioner Feeney reported that Section 2001.39, Government Code, requires that the Commission review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. At its June 2012 meeting, the Commission approved a plan which establishes a date for the required review of each rule. He indicated that staff had reviewed Chapter 91, Subchapter H and I and is recommending that no changes be made to 7 TAC Sections 91.801, 91.804, 91.808, and 91.902.

After a brief discussion, a motion was made and seconded to recommend that the Commission find that the reasons for adopting **7 TAC Sections 91.801, 91.804, 91.808 and 91.902** continue to exist and that the rules be readopted without change. The motion was unanimously adopted.

(d) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements. Commissioner Feeney noted that the proposed amendments would impose a new requirement on credit unions that are not able to make the transfers of income, required by this rule, for three consecutive quarters. He explained that those credit unions would be required to develop a written plan to come into compliance with the rule and that the credit union's plan would be considered a written agreement with the Department.

After a short discussion, a motion was made, and seconded to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.901** concerning reserve requirements. The motion was unanimously adopted.

(f) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.401 Concerning Purchase, Lease, or Sale of Fixed Assets. Commissioner Feeney noted that the proposed amendments would allow more flexibility to credit unions for investments in property and would reduce regulatory burden for credit unions. He indicated that the proposed amendments would change the title of the rule to "Credit Union Ownership of Property" to better reflect the scope and purpose of the rule. The proposed amendments would also streamline and clarify definitions, reduce the requirement for credit unions to obtain prior approval from the Department to invest in

premises, and explain the standards for evaluating a request to invest in credit union premises in an amount that exceeds the credit union's net worth. Mr. Feeney also point out that the proposed increase in the aggregate limit should not be interpreted as an invitation for a credit union to make excessive, speculative, or otherwise irresponsible investments in fixed assets. Rather the proposal reflects the Department recognition that relief from the prescriptive limit is appropriate, but credit union investments in fixed assets are, and will continue to be, subject to supervisory review. If a credit union has an elevated level of fixed assets, the Department will maintain close oversight to ensure it conducts prudent planning and analysis with respect to fixed asset acquisitions, can afford any such acquisition, and properly manages any ongoing risk to its earnings and capital.

After a brief discussion, Ms. Morrow moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.401** concerning loan participation investments. Ms. Stewart seconded the motion and the motion was unanimously adopted.

Chairman Kyker moved to excuse the absence of both Sherri Merket and John Yoggerst from this meeting (June 18, 2015). Ms. Stewart seconded the motion, and the motion was unanimously adopted.

Commissioner Feeney alerted the Committee to the fact that it will begin the mandatory review of the field of membership rule (Rule 91.301) at the next meeting. He indicated that it is the intention of the Department to recommend changes to this rule.

Ed Zingleman – Board Member, Texas Dow Employees Credit Union.
Mr. Zingleman voiced his support for updating the field of membership rule.

ADJOURNMENT -- There being no other items to come before the Committee, and without objection, the meeting was adjourned at 2:44 p.m.

Vik Vad
Chairman

Isabel Velasquez
Recording Secretary

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