Checks/Share Drafts

A check or share draft is a type of negotiable instrument and is governed by Chapter 3 of the Texas Business and Commerce Code. A check or share draft payable to two payees is governed by TEX. BUS. & COM § 3.110(d).

A check or share draft payable to "X **and** Y" is payable to all of them and may be negotiated, discharged, or enforced <u>only</u> by all of them. So if a check or share draft is payable to "X and Y," neither X nor Y, acting alone, can be the holder of the check or share draft. The check or share draft is payable to X and Y acting jointly. Thus, both X and Y are jointly the holder and together are the "person" entitled to enforce that check or share draft.

If a check or share draft is payable to "X **or** Y," it is payable to either of them individually and may be negotiated, discharged, or enforced by any or all of them in possession of the check or share draft. So if a check or share draft is payable to "X or Y," either X or Y is the payee and if either is in possession, then that person is the holder and the person entitled to enforce that check or share draft.

If a check or share draft payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, then the check or share draft is payable to the persons alternatively. If a check or share draft is payable to "X and/or Y," you may treat it like a check or share draft payable to X or Y. If you have a check or share draft payable to two or more payees without a connecting conjunction (for example, a check or share draft made payable to more than one payee where the names just appear one above the other without any "and," "or" or "&" between the names), then the check or share draft is ambiguous as to whether it is paid alternatively to the payees. Under the law, because that check or share draft is ambiguous, you are able to rely on the indorsement of a single payee. However, the <u>better practice</u> when faced with this ambiguity is to obtain both indorsements to avoid a dispute by the other payee(s).

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CAMELS Rating System

The CAMELS rating system, which was implemented by the Department on September 1, 2104, is a tool utilized by the Department to assess a credit union's overall financial and operational condition, and is based on both quantitative and qualitative elements. Quantitative data, such as the level of capital, delinquency and loan loss trends, and earnings performance are an integral part of the measurement; while qualitative data, such as board oversight, management effectiveness, policies and procedures, risk management practices, and information systems are also central to an evaluation of the CAMELS components.

Composite and component ratings are assigned by the examiner on a scale of 1 to 5, with a 1 indicating the highest rating, strongest performance and risk management practices, and the least degree of supervisory concern; whereas a rating of 5 is indicative of the lowest rating, weakest performance and risk management practices, and the highest degree of supervisory concern. As a general rule, the composite rating will bear a close relationship to each of the component ratings; however, some components may be given more weight than others and incorporate any factor that the examiner believes could have a material impact on the overall financial and/or operational condition of the credit union.

The Department believes it is appropriate to disclose code ratings to credit union management. However, credit unions are reminded that CAMELS is an internal risk rating system utilized by the Department to quantify existing or perceived weaknesses in a credit union's operations for supervision purposes only. More importantly, code ratings are not designed, nor should they be construed by the board of directors or operating management as a report card. The disclosure of ratings is designed to enhance the examination process, encourage a more open and complete discussion of examination findings and recommendations, provide management with useful information for making effective risk management decisions, and enable management to address specific weaknesses identified through the examination process.

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Operating Fee Due

All fees must be received on or before September 30, 2015 to avoid the payment of any penalties. If you did not receive an invoice, immediately contact Isabel Velasquez at (512) 837-9236 to provide you with an invoice.

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September 30 Call Report

The due date for the September 30, 2015 call report is October 23, 2015. Your credit union's profile must be reviewed, updated, and certified **prior** to submitting your 5300 Call Report. Always remember that whenever you make a change to the profile, you **must** "save and certify" to permanently save your changes.

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Notice of Rules Committee Meeting

The Credit Union Commission will hold a Rules Committee meeting on **Thursday, October 15, at 2:00 p.m.**, in the Department conference room. The draft agenda will be available on the CUD website the week of October 1st for your convenience.

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Notice of Regular Commission Meeting

The Credit Union Commission will hold its regular meeting on **Friday, October 16, at 8:00 a.m.**, in the Department conference room. The draft agenda will be available on the CUD website the week of October 1st for your convenience.

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New TRID Mortgage Disclosure Rules

The new federally-mandated disclosure rules governing mortgage loan estimates and closing costs take effect on October 3.

The Consumer Financial Protection Bureau (CFPB) on November 20, 2013 issued a final rule to integrate disclosures required by the federal Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA). Called TILA-RESPA Integrated Disclosure, or TRID, the rule consolidates four existing disclosures required under TILA and RESPA for mortgage loans into two forms:

- A **Loan Estimate** that must be delivered or placed in the mail no later than the third business day after receiving a member's loan application.

- A **Closing Disclosure** that must be provided to the consumer at least three business days prior to consummation.

The CFPB also refers to the new rules as *"Know Before You Owe."* The objective is to improve member understanding of the mortgage process, aid comparison shopping, and help prevent surprises during loan closings.

According to the CFPB, the new TRID disclosure forms must be provided by all lenders who receive a mortgage loan application from a consumer on or after October 3.

For more information on the new forms and additional regulatory requirements, review the TILA-RESPA Integrated Disclosure rule implementation guidance posted on the CFPB website here.

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Publication Deadlines

In order to meet the submission deadlines for the applicable issues of the Texas Register, it is necessary for the Department to establish the schedule included below. Completed applications received after the deadline for the month cannot be published until the following month.

Publication Date	Application Deadline
October, 2015	Friday, October 16
November, 2015	Friday, November 13

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Applications Approved

Applications approved since August 19, 2015 include:

Credit Union	Changes or Groups Added
Field of Membership Change – Approved:	
Neighborhood Credit Union (Dallas)	See Newsletter No. 04-15
InTouch Credit Union (Plano)	See Newsletter No. 07-15
Public Employees Credit Union (Austin) (Modified)	See Newsletter No. 04-15

Persons who live, worship, attend school or work within a 10-mile radius of the Public Employees Credit Union office located at 15800 N. FM 620, Austin, TX 78717.

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Applications Received

The following applications were received and will be published in the September 25, 2015 issue of the Texas Register.

Field of Membership Expansion:

Texas Dow Employees Credit Union (Lake Jackson) – To permit members of the University of Houston Alumni Association, to be eligible for membership in the credit union.

Union Square Credit Union (Wichita Falls) – To permit persons who live, work, worship or attend school in Archer, Baylor, Clay, Wichita or Wilbarger Counties, Texas; or Cotton or Tillman Counties, Oklahoma, to be eligible for membership in the credit union.

Applications Received

First Service Credit Union (Houston) – To permit persons who live, work, attend school and business entities located within a 10-mile radius of the First Service Credit Union branch located at 8640 Spring Cypress Rd., Spring, TX 77379, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at http://www.cud.texas.gov/page/bylaw-charter-applications. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas, 78752-1699

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This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.

Suggestions and comments concerning the newsletter or its content are welcomed.

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To learn more about CUD click http://www.cud.texas.gov or contact us at 914 E. Anderson Lane, Austin, TX 78752