

**REGULAR STATE CREDIT UNION BOARD MEETING
HELD BY CONFERENCE CALL
OFFICE OF THE COMMISSIONER
DEPARTMENT OF FINANCIAL INSTITUTIONS
2000 SCHAFFER STREET, SUITE G
BISMARCK, NORTH DAKOTA**

September 9, 2016

The regular meeting of the State Credit Union Board was called to order by Chairman Entringer in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota, at 9:30 a.m., Friday, September 9, 2016, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman *(Office)*
George Economon, Member *(Fargo)*
Deb Gallagher, Member *(Office)*
Melanie Stillwell, Member *(Williston)*

MEMBER ABSENT: Paul Brucker, Member

ALSO PRESENT: Aaron Webb, Secretary *(Office)*
Suzette Richardson, Administrative Staff Officer *(Office)*
Jan Murtha, Assistant Attorney General *(Office)*
Corey Krebs, Chief Examiner – Credit Unions *(Office)*
Sara Sauter, Financial Institutions Examiner *(Office)*
Heidi LaBree, Financial Institutions Examiner *(Office)*
Jeff Olson, CU Association of ND *(Office)*
Steve Schmitz, First Community CU *(Jamestown)*
Fred Walth, First Community CU *(Jamestown)*

WELCOME NEW BOARD MEMBER

Chairman Entringer welcomed Deb Gallagher to the State Credit Union Board, as she has been appointed to fill the term vacated by Steve Tonneson.

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on June 3, 2016.

It was moved by Member Economon, seconded by Member Stillwell, and carried by a vote of 4 to 0, with Member Brucker absent, to approve the minutes of the regular meeting held June 3, 2016, as presented.

FIRST COMMUNITY CREDIT UNION, JAMESTOWN – APPLICATION TO ESTABLISH A BRANCH

Assistant Commissioner Webb reviewed his Memorandum dated August 26, 2016, indicating on April 26, 2016, the Department received the application by First Community Credit Union, Jamestown (FCCU) to establish a branch at 5201 42nd Street South, Fargo.

Assistant Commissioner Webb indicated the proposed branch would be located within FCCU's current field of membership; therefore, an application to expand the field of membership is not required.

Assistant Commissioner Webb reviewed North Dakota Administrative Code Chapter 13-03-15 which addresses the creation of a branch. Assistant Commissioner Webb indicated FCCU's Board of Directors approved the branch application at its April 19, 2016, meeting.

Assistant Commissioner Webb indicated notice of the application was published between June 25-July 22, 2016, in the *Traill County Tribune* (Traill County), *Grand Forks Herald* (Grand Forks County), *Steele County Press* (Steele County), *Griggs County Courier* (Griggs County), *Valley City Times-Record* (Barnes County), *Fargo Forum* (Cass County), *Ransom County Gazette* (Ransom County), *The Daily News* (Richland County) *LaMoure Chronicle* (LaMoure County), and the *Sargent County Teller* (Sargent County). Assistant Commissioner Webb indicated as of the date of this memorandum no comments were received concerning the application; adding that NDBA did request a copy of the application.

Assistant Commissioner Webb stated that President Schmitz indicates the Fargo area continues to grow in size and currently has a relatively small credit union presence; therefore, concludes there would not be any harm to other credit unions.

Assistant Commissioner Webb stated that President Schmitz indicated current members of FCCU have requested additional branch coverage in south Fargo; adding that FCCU's financial stability, deposit and loan growth in the Fargo area will lend to the success of the proposed branch.

Assistant Commissioner Webb explained although the branch is projecting operating losses for the first three years, this should have a minimal impact on profitability overall. Assistant Commissioner Webb continued that FCCU had a net income of \$7.49 million in 2015, and the projected loss for the branch in years 1, 2, and 3 is (\$417,618), (\$417,953), and (\$249,708) respectively, with projected positive earnings in years 4 and 5. Assistant Commissioner Webb indicated the Department does not believe WCCU's overall ability to succeed is an area of concern.

Assistant Commissioner Webb stated FCCU's fixed asset ratio would amount to approximately 3.35% following the proposed expansion, which is well under the regulatory 6% regulatory limit.

President Schmitz stated the projected costs of constructing the branch would be approximately \$500,000 less than the estimated cost provided in the application.

After review of the proposed Order by Chairman Entringer, President Schmitz anticipates needing longer than September 9, 2017, to commence business at the proposed location; therefore, it was agreed by the Board the proposed Order be amended to allow until December 31, 2017, for FCCU to commence business at the branch location.

Assistant Commissioner Webb indicated the Department recommends approval of the application by First Community Credit Union, Fargo, to establish a branch at 5201 42nd Street South, Fargo, North Dakota; and that Chairman Entringer be authorized to sign the amended proposed Order on behalf of the Board.

It was moved by Member Economon, seconded by Member Gallagher, and carried by a vote of 4 to 0, with Member Brucker absent, to approve the application by First Community Credit Union, Fargo, to establish a branch at 5201 42nd Street South, Fargo, North Dakota; and that Chairman Entringer be authorized to sign the proposed amended Order on behalf of the Board.

Steve Schmitz and Fred Walth left the conference call at 9:43 a.m.

UNITED SAVINGS CREDIT UNION, FARGO – ARTICLES OF AMENDMENT

Chairman Entringer explained United Savings Credit Union has submitted Articles of Amendment – Certificate of Organization regarding Article II, Section 2, Membership, which eliminates the street address of the home office.

It was moved by Member Gallagher, seconded by Member Economon, and carried by a vote of 4 to 0, with Member Brucker absent, to approve the Articles of Amendment – Certificate of Organization by United Savings Credit Union, Fargo, regarding Article II, Section 2, Membership.

DAKOTA PLAINS CREDIT UNION, EDGELEY – CUSO INVESTMENT REQUEST

Chief Examiner Krebs reviewed his Memorandum dated September 1, 2016, indicating Dakota Plains Credit Union (DPCU) is requesting permission to invest \$25,000 into Midwest Business Solutions, LLC (a/k/a Paktola). Chief Examiner Krebs explained DPCU indicated the proposed investment would satisfy the need to provide business loan underwriting and facilitating the sale of loan participations.

Chief Examiner Krebs reviewed the regulations which apply to the proposed application; explaining based on the 6-30-16 Call Report data the CUSO investment limit for DPCU is \$588,000 and would be within the limits outlined in Section 13-03-23-06 of the North Dakota Administrative Code. Chief Examiner Krebs indicated the financial impact of the investment would be minimal and loan sales would be a beneficial source of liquidity for DPCU; therefore, the Department recommends approval of the request.

It was moved by Member Economon, seconded by Member Gallagher, and carried by a vote of 4 to 0, with Member Brucker absent, to approve the request of Dakota Plains Credit Union, Edgeley, to invest \$25,000 into Midwest Business Solutions, LLC (a/k/a Paktola).

PROPOSED CHANGES TO NORTH DAKOTA ADMINISTRATIVE CODE

Chief Examiner Krebs reviewed a summary of proposed rule changes, noting many of the proposed changes are to conform with NCUA rules. Chief Examiner Krebs indicated NCUA rules are a mix of insurance and chartering rules; however, what does or does not apply to a state-chartered credit union is very confusing. Chief Examiner Krebs stated many of the proposed changes will combine NCUA rules with state rules; therefore, complying with state rule will reasonably assure NCUA compliance also.

Chief Examiner Krebs specifically reviewed the following changes:

13-03-02 – Real Estate Loans. Clarifies the life of a loan and adds the term “casualty” which is more inclusive; and clarifies that this section is not applicable if a mortgage is taken as an abundance of caution. Chief Examiner Krebs indicated this is a deviation from the application but more of a clarification of existing expectations.

13-03-05.1 – Merger Procedures. Clarifies the notice requirements as part of a merger.

13-03-06 – Prompt Corrective Action. Changes the definition to be more consistent with NCUA; specifically, that net worth includes equity acquired in a merger and that NCUA 208 assistance is part of net worth; eliminates the old ALLL calculation which has been moved to the new proposed Commercial Loan rule; and added a reference to NCUA’s risk based net worth requirement rule. Chief Examiner Krebs noted these changes are temporary as NCUA’s risk weighted capital rules do not become effective until 1-1-19, at which time many changes will be necessary.

Member Stillwell commented that some credit unions have other comprehensive income, either as a plus or minus, against reserves; however, this is not addressed in this section. Member Stillwell questioned if this would be a part of equity but not a part of net worth. Chief Examiner Krebs stated the definition of net worth as it relates GAAP gives clear guidance; however, agrees it is not clear in this proposed rule or NCUA rules. Chairman Entringer stated he believes it should not be included as a part of equity when calculating capital. It was agreed a clarifying statement regarding this should be included in this section.

13-03-08 – Negotiable Instruments. Changes the time required to correct an overdraft from 46 to 60 days, as credit unions have expressed concern as to their ability to comply within the 45-day requirement.

13-03-14-03 – Field of Membership. Clarifies notice requirement as part of a field of membership expansion.

13-03-15-04 – Branching. Clarifies notice requirement as part of a branch application.

13-03-16 – Member Business Loan Limits. Due to volume of changes this Section would be repealed.

13-03-16.1 – Commercial and Member Business Loan Limits. New rule to replace 13-03-16. Most changes are to parallel NCUA's rule. Chief Examiner Krebs explained the significant areas that do not parallel NCUA's rule.

Member Stillwell pointed out in Section 13-03-16.1-08(1) the reference to subsections 1 and 2 of section 13-03-16-02 is not correct as section 13-03-16-02 will be repealed. Chief Examiner Krebs indicated he will research this and make the necessary reference change.

13-03-20 – Participations. Changes definitions to be consistent with NCUA; added changes to contract and program requirements recently made by NCUA; and added waiver process to be consistent with NCUA's waiver process rule.

13-03-23 – CUSO. Adds NCUA audit and structure language.

13-03-26 – Interest Rate Risk. New rule implementing NCUA rule applicable to state charters; however, written so expectations are understandable.

13-03-27 – Liquidity and Contingency Funding Plan. New rule implementing NCUA rule applicable to state charters.

13-03-28 – Loan Workouts. New rule implementing NCUA rule applicable to state charters; however, written so expectations are understandable and clarified overlap with other regulations.

Chairman Entringer reiterated the goal is to update the state rule, specifically the Member Business Loan rule, since that is what state-chartered credit unions are governed by. Chairman Entringer stated the rule will be substantially similar to NCUA's rule. Chairman Entringer reviewed the history of drafting the Member Business Loan rule in 1999, at which time NCUA did not grant approval; therefore,

state-chartered credit unions had to follow NCUA's rule even though the state rule was effective. Chairman Entringer indicated this is the same process, as this draft rule has already been sent to NCUA for comments; however, NCUA's legal department will not go on record with any comments. Chairman Entringer continued that NCUA will not review the rule until it has been finalized through the state process.

Chairman Entringer stated the proposed rule is being submitted for possible approval by the State Credit Union Board; however, since the Board has only had the proposed rule a short time and the Department has not yet met with the Government Affairs Committee (GAC), the Board has the option to postpone approval for publication of the rule, and a special State Credit Union Board meeting can be scheduled.

Member Gallagher suggested the proposed rule be shared with the GAC prior to any action by the State Credit Union Board. Members Economon and Stillwell agreed.

In response to Member Stillwell, Chairman Entringer explained the publication timeframe for proposed rules: draft rule; State Credit Union Board reviews proposed rule and authorize publication; publication must be according to statute and detail when a hearing will be held, which must occur no sooner than 20 days after the date of the final publication; hearing is held to receive comments only; following the hearing there is a 10-day comment period in which additional comments may be received; any comments received must be reviewed and then address why changes are or are not being made, however, only non-substantive changes can be made; State Credit Union Board must approve proposed rule with or without changes; proposed rule is submitted to Attorney General's Office for review and will issue letter if proposed rule complies with all requirements; proposed rule is submitted to Legislative Council and a meeting is scheduled for the Department to appear before the Legislative Rules Committee, at which time the Committee can make any changes to the proposed rule or not grant approval; proposed rule becomes final the following month after approved by the Legislative Rules Committee. Chairman Entringer concluded the rule process can take from 6 to 9 months.

Chairman Entringer explained an option is that the State Credit Union Board repeal the Member Business Rule, resulting in NCUA's rule prevailing. Chairman Entringer added that it would have to be researched what would happen to the credit unions that have previously been granted State Credit Union Board waiver approval to extend an additional 10% for operating loans above the 15% lending limit.

In response to Mr. Olson, Chairman Entringer indicated the Legislative Rules Committee does meet during the Legislative Session.

Members Economon and Stillwell agreed with Member Gallagher's suggestion that the proposed rule be shared with the GAC prior to any action by the State Credit Union Board. Chairman Entringer indicated he has informed Member Brucker the proposed rule has not been reviewed by the GAC; however, added that Member Brucker is a member of the GAC.

In response to Member Stillwell, Chairman Entringer indicated the proposed rule is a public document; therefore, can be shared.

It was the Board's decision to share the proposed rule with the GAC and then schedule a special State Credit Union Board meeting to proceed with the proposed rule process.

Jeff Olson left the meeting at 10:25 a.m.

CREDIT UNION BUDGET UPDATE

Chairman Entringer indicated the Board received the Organizational Status by Summary Account and Source for the month ending July 31, 2016. Chairman Entringer pointed out the dollar amount listed for assessments is not the total collected since assessments were not all received by July 31, 2016. Chairman Entringer indicated the Department projected total assessments of \$642,800; however, the actual amount collected was \$642,742. Chairman Entringer indicated the carryover balance was projected to be \$317,900, with the actual carryover being \$271,600.

The Board went into closed session at 10:26 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1, and to discuss any confidential records pursuant to North Dakota Century Code 44-04-19.2, and returned to open session at 10:59 a.m.

APPROVAL OF EXECUTIVE SESSION MINUTES

It was moved by Member Economon, seconded by Member Gallagher, and carried by a vote of 4 to 0, with Member Brucker absent, to approve the

executive session minutes of the regular meeting held on June 3, 2016, as presented.

The meeting adjourned at 11:00 a.m.

Robert J. Entringer, Chairman

Aaron Webb, Secretary