



February 9, 2012

VIA ELECTRONIC DELIVERY

The Honorable Deborah Matz, Chair
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22134

RE: Texans Credit Union

Dear Ms. Matz:

This is the third letter in connection with the NCUA's oversight of Texans Credit Union.

The first letter, in September 2005, was intended to bring to the attention of the agency that this institution had undertaken a rapid, clearly flawed, and, in our view, illegal expansion into commercial lending. That letter pointed out, for example, that NCUA's own Report 5300 showed that Texans Credit Union had member business loans at the level of 23.7 percent of assets or roughly twice the permissible statutory and regulatory limit.

Unfortunately, those warnings were disregarded and the institution was allowed to continue to operate without serious supervision of its loan level, assets quality, and capital adequacy until 2011 when it was finally placed into a conservatorship. At that time, we sent a second letter, dated May 2, 2011, to the agency expressing our concerns that this multi-billion dollar depository institution was being allowed to continue to operate as an insolvent but ongoing concern in competition with other depository institutions. We are disappointed that the NCUA never responded to that letter.

Just last week, it was reported that NCUA has now decided to infuse \$60 million in subordinated debt to Texans Credit Union in an effort to offset its negative net worth of approximately \$46 million. As well-described by the *Credit Union Times*: "Nearly a year after being placed in conservatorship, it appears Texans Credit Union has received \$60 million in subordinated debt to keep it afloat." Allowing insolvent credit unions to continue to operate as fully functioning depository institutions is unfair to their "in-market" competitors and counterproductive to the overall health of the banking system

To be more specific, the factual record in this particular instance is that Texans Credit Union has been allowed to operate over a period of more than seven years without proper supervision, without regard to NCUA regulations, and now, apparently, without any capital whatsoever. A review of the Texans Credit Union website also reveals that it includes no financial information on the institution subsequent to the date of December 31, 2010.

On behalf of our member institutions and other interested parties, we would appreciate an agency response to the following questions:

1. Does the NCUA consider the lack of current financial information at Texans Credit Union to be fair to depositors/members, borrowers and potential customers?
2. Is this conservatorship holding or soliciting deposits in excess of the amount insured by the National Credit Union Share Account Fund?

3. What is the public policy justification for allowing this insolvent, government-supported institution to continue to operate as a going concern? As referenced in one of our prior letters, when the FDIC establishes a receivership in the highly unusual circumstance that it is unable to find an acquirer for a failed bank, the institution is placed in a wind-down mode and all insured depositors are, by FDIC directive, “encouraged to transfer their insured funds to other banks.” Please explain the basis for this policy differential.
4. Is there a plan and what is the timeframe for ending this conservatorship?
5. In addition to the ongoing losses at the institution itself, are there additional carrying costs to the NCUSIF as a consequence of operating this conservatorship?
6. As the administrator of the NCUSIF, is there not a fiduciary duty on the part of the NCUA to pursue the “least cost” alternative in terms of resolving failed credit unions?
7. In light of the apparent lack of eligible and/or interested credit union acquirers, what is the NCUA’s objection to expanding the list of potential bidders to FDIC-insured banks?

On this latter point, we anticipate there would be significant in-state interest in the 19 branches operated by the Texans Credit Union in North Texas and Austin area. As indicated in our previous correspondence, moving these branches and deposits to the taxable banking sector would also be of financial assistance to the government at this time of significant budget duress.

We look forward to the receipt of the information as requested above.

Sincerely,



J. Eric T. Sandberg, Jr.
President/CEO

cc: Hon Martin J. Gruenberg, Acting Chair, Federal Deposit Insurance Corp.
Hon. Timothy Geithner, Secretary of the Treasury
Hon. Ben Bernanke, Chairman, Federal Reserve Board
Hon. Mr. John Walsh, Acting Comptroller of the Currency
Hon. Kay Bailey Hutchison, United States Senate
Hon. John Cornyn, United States Senate
Hon. Jeb Hensarling, United States House of Representatives
Hon. Sam Johnson, United States House of Representatives
Hon. Michael McCaul, United States House of Representatives
Hon. Kay Granger, United States House of Representatives
Hon. Kenny Marchant, United States House of Representatives
Dr. Michael Burgess, United States House of Representatives
Hon. Eddie Bernice Johnson, United States House of Representatives
Hon. Lamar Smith, United States House of Representatives
Hon. Pete Sessions, United States House of Representatives
Mr. Harold Feeney, Commissioner, Texas Credit Union Department
Mr. Charles Cooper, Commissioner, Texas Department of Banking
Mr. Doug Foster, Commissioner, Texas Department of Savings and Mortgage Lending