

CREDIT UNION DIVISION: BACKGROUND MEMORANDUM

The Credit Union Division's legislation is largely composed of technical revisions and updates to Chapter 533. For example, the Division is proposing to update the requirements for its annual report in section 533.114. This change will conform with the Call Report data the Division receives from credit unions, and to what the Division has already been reporting for several years. A conforming change is also made to chapter 7A to reflect that data from credit unions is not available until their year-end on December 31, and that the Division's annual report cannot be prepared until after the January Call Report is filed, which contains the year-end data.

Cybersecurity concerns have broadened the scope of potential threats to a credit union. While the Division has the authority under current statute to examine any person having business transactions or a relationship with any state credit union, the statute requires the Division to first apply to and get an order from the District Court and examine only to determine whether the capital is impaired or whether the safety of its deposits is imperiled. Our experience with the courts in the past two years is that this may not enable us to act quickly enough in the case of a cyberthreat. Other state financial regulators are able to proceed in a timely, compressed time frame without having to secure a court order, which we believe is prudent. We also believe it necessary to include in the scope of an examination of any person or entity having transactions or a relationship with a credit union that which may impact their financial information or accounts or their computer systems or networks.

Sections 533.115A and 533.201A appear at first glance to be new sections but are actually reorganizations of existing sections of Chapter 533. They are currently sections 533.327 and 533.328, respectively, but fit better overall in the chapter in their new proposed locations.

The Division proposes adding a penalty to section 533.205 because of an issue it has faced with credit unions that have violated the statutory prohibition on overdrafts for directors, officers, and employees. Our only current remedy would be to pursue removal of the employee or director from office, which is a harsh remedy for a small overdraft. This addition allows us to pursue an intermediate remedy which is more suited to the harm.

We are proposing a change to our parity language in section 533.301. The Division believes the state charter should not be at a disadvantage to the federal charter.

The Division believes that adding new section 533.332 regarding data breaches will help to put credit unions on notice of their obligations to notify the Division and others in the event of a data breach.

Section 533.401 is technical clean-up regarding merger votes. The National Credit Union Administration, as insurer, has long been required to approve all mergers before a membership vote could be scheduled, and this language will formally recognize that requirement.