



DCU BULLETIN

Division of Credit Unions

Washington State Department of Financial Institutions

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April 10, 2014

No. B-14-07

Final Rule on the Frequency of Board Meetings

The board of directors of a Washington state chartered credit union will have at least six regular board meetings each year, with at least one of these meetings held in each calendar quarter, effective July 28, 2013, in accordance with RCW 31.12.225. Credit union board of directors and senior management should review the final rule to understand when the Director of Credit Unions may require a credit union's board of directors to meet more frequently.

Rule-Making Process

In accordance with RCW 31.12.225(5), the Program Manager, as a designee of the Director of Credit Unions, led the rule-making process to interpret the frequency of board meetings with the following rule-making steps:

- Held public meetings on November 26, 2013 and January 23, 2014;
- Filed the CR-101 on November 6, 2013; and
- Held the CR-102 hearing on March 20, 2014.

All comments were considered throughout the rule-making process and are summarized in the Concise Explanatory Statement.

Rule Becomes Effective on May 10, 2014

On April 9, 2014, the Department of Financial Institutions (DFI) will file the final rule (CR-103, WSR 13-04-132) on the frequency of board meetings with the Washington State Register. The new rule on reasonable compensation will be effective on May 10, 2014. The rule was moved to a new Chapter 208-400 Washington Administrative Code for corporate governance matters.

The adopted rule language, the CR-103 final rule for the frequency of board meetings, and the Concise Explanatory Statement are attached. In addition, copies of these documents and the other rule-making documents pertaining to reasonable compensation are available on the DFI's website at: <http://dfi.wa.gov/cu/rulemaking.htm>

Contact Person

For questions regarding reasonable the frequency of board meetings rulemaking, please contact Doug Lacy-Roberts, Program Manager of Credit Unions at 360-902-8753 or email Doug.Lacy-Roberts@dfi.wa.gov .

NEW SECTION

WAC 208-400-020 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

"**Board**" has the same meaning as ascribed in RCW 31.12.005(1).

"**Board chair**" means the serving chairperson of the board of directors of a credit union, who has been duly appointed by the board of directors to serve as its chair.

"**CAMEL**" means the rating system used to measure the safety and soundness of credit unions that are insured by the National Credit Union Share Insurance Fund (as defined in 12 U.S.C. Sec. 1783) and which scores a credit union's capital adequacy, asset quality, management, earnings, and asset/liability management (liquidity), both individually and on a composite basis.

"**Credit union**" has the same meaning as ascribed in RCW 31.12.005(5).

"**Director**" has the same meaning as ascribed to that term in RCW 31.12.005(8).

"**Manager**" means the duly appointed and serving chief executive officer of a credit union.

"**Troubled condition**" has the same meaning ascribed to that term in the rules of the National Credit Union Administration, at 12 C.F.R. Sec. 701.14(b)(3).

"**Unsafe or unsound practice**" has the same definition as ascribed to that term in RCW 31.12.005(26).

NEW SECTION

WAC 208-400-030 Frequency of board meetings. (1) **Authority to determine the frequency of board of directors meetings.** Subject to the provisions of this section, a board may determine the frequency of its meetings and must specify such frequency in its bylaws.

(2) **Minimum meeting requirement.** A board of directors must meet a minimum of six times in each calendar year and at least once per calendar quarter.

(3) **Director's authority to require more frequent meetings.** The director may require that a board meet more frequently if he or she finds that it is necessary for the board to meet more frequently to address examination matters, including without limitation, evidence of any of the following:

(a) The credit union's current composite CAMEL rating issued by the director is a 3, 4, or 5;

(b) The credit union's current management component CAMEL rating issued by the director is a 3, 4, or 5;

(c) The credit union's net worth ratio is less than seven percent;

(d) The credit union is currently in a troubled condition;

(e) In the judgment of the director, the credit union has committed an unsafe or unsound practice that has not been corrected to the satisfaction of the director and that continues to be a concern to the director, or the credit union is about to commit an unsafe or unsound practice; or

(f) The credit union has been notified in writing by the director of a significant supervisory or financial concern.

(4) **Notification to the board.** If the director determines as set forth in subsection (3) of this section, that a board of directors must meet more frequently than as set forth in subsection (2) of this section, the director will send written notice to the board chair, with a copy to the credit union's manager, setting forth the director's findings underlying the determination and the required frequency of the board of directors' meetings. This notice will remain in effect until rescinded in writing by the director.



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Financial Institutions, Division of Credit Unions

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

To address and provide standards for Washington State Chartered Credit Unions for when the Director of Credit Unions will require credit union board directors to meet on a more frequent basis than the minimum of six times in a calendar year and at least once a quarter.

Citation of existing rules affected by this order: None. This is a new rule.

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 31.12.225

Other authority : Chapter 34, Laws of 2013

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as **WSR 14-04-127** on **February 5, 2014** (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **Not Applicable**

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: April 8, 2014

NAME (TYPE OR PRINT)
Linda Jekel

SIGNATURE

TITLE
Director, Division of Credit Unions

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

**DATE: April 09, 2014
TIME: 9:23 AM**

WSR 14-09-024

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>



State of Washington
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DIVISION OF CREDIT UNIONS

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April 2, 2014

Concise Explanatory Statement
Pursuant to RCW 34.05.325(6)

Promulgation of New Rule regarding reasonable compensation for credit union directors and supervisory committee members for their services.

Agency reasons for adopting the rule.

(RCW 34.05.325(6) (a) (i))

In 2013 Washington State Legislature passed SB 5302, Chapter 34, Laws of 2013, permitting Washington State chartered credit unions to determine the frequency of its board meetings; however, the board of directors must at a minimum, meet six times in a calendar year and must meet at least once a calendar quarter. The Department of Financial Institutions (DFI), Division of Credit Unions is responsible for regulating to protect the integrity of credit unions as cooperative institutions. The rule will provide guidance and oversight on when the Director of Credit Unions will require credit union board of directors to meet on a more frequent basis.

Describe differences between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for differences.

(RCW 34.05.325(a) (ii))

None

Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments.

(RCW 34.05.325(6) (a) (iii))

1. Written comments received: Prior to publishing the CR-102 and text of the proposed rule on February 5, 2014, DFI met with stakeholders at two teleconferenced meetings

on November 26, 2013 and January 23, 2014. All materials relevant to these meetings were published on the Division of Credit Union's rulemaking website. During this time period, the following comments were received and posted. See the attached two comment letters.

Rulemaking Comments

- a. Parker Cann submitted several suggestions in Track Changes to the draft rule to clarify the language in sections 3 and 4. His suggestions were sent to us on January 7, 2014 and were regarding draft #2 of the proposed rule. We agreed with most of his suggestions. Those suggested changes he requested that weren't made, didn't warrant changing because we believe the original draft wording was satisfactory.
- b. Bruce Pearson of Styskal, Wiese & Melchione, LLP made request to change three sections of draft 1 of the proposed rule. His requests were sent to us on November 27, 2013 and impacted the following three sections: (1) Section (1) (iv); (2) Sections (1) (v) and (vi) and (3) Section 2.

Pearson's requested changes to Section (1)(iv) - We changed the draft rule to reflect Pearson's first request, which reads, "Reference was made at the November 26, 2013 hearing that a "troubled institution" is defined by 12 CFR 701.14. Can a specific reference be added for clarity?" The specific reference Bruce Pearson requested was added to the rule.

Pearson's requested changes to Sections (1)(v) and (vi) - Pearson asked that the rule state that an "unsafe or unsound practice" and a "significant supervisory concern" would likely be determined as part of exam. His suggested change was not made, because we believe it unnecessarily limits how an "unsafe or unsound practice" or a "significant supervisory concern" could be determined. Note: Not all "unsafe or unsound practices" or "significant supervisory concerns" are found as part of an examination.

Pearson's three requested changes to Section 2 - Pearson requested that we make changes regarding the Division Director's notice to the credit union board of directors. His suggested changes were not made, because they requested specific information be required in the notice, which would limit the usefulness of the rule. For example, Pearson requested that the credit union's board of directors cannot be required to meet more than monthly. We determined this change would limit the effectiveness of this rule, because in times of financial distress and/or severe operational concerns a credit union's board of directors may need to meet more frequently. His other request changes were similar in

nature, and we felt his changes in Section 2 would limit the effectiveness of the rule.

2. Oral Comments received during the public hearing held January 7, 2014:
 - a. Chuck Zeller, President/CEO of United Health Services Credit Union, who expressed his support of the rulemaking and his appreciation of being able to participate in the process.
3. No Written Comments were received during the public hearing or on or before the March 24, 2014 deadline.
 - a. The final language of the proposed rule remained the same as published in the CR 102.

CONCLUSION

The proposed rules provide regulatory guidance, clarity, and consistency. DFI made the proposed rules available to all interested parties for a prolonged review period, and the proposed rules were discussed at two stakeholder meetings in additions to the formal CR-102 hearing on the rule. All information on the rulemaking process; the draft rules, the written comments, and the hearings were timely posted to the DFI website. The final proposed rule is the product of an open, deliberative process.

