

CHAPTER 13-03-21
PURCHASE, SALE, AND PLEDGE OF ELIGIBLE OBLIGATIONS

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13-03-21-01. Definitions.

For purposes of this section:

1. "Eligible obligation" means a loan or group of loans.
2. "Student loan" means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the federal government, of a state government, or any agency of either.
3. "Unimpaired capital and surplus" means the total of a credit union's net worth and member shares.

History: Effective January 1, 2007.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06

13-03-21-02. Authorizations.

1. **Purchase.**

- a. A credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:
 - (1) Eligible obligations of its members, originating from any source in the United States, if either they are loans it is empowered to grant or they are refinanced with the consent of the borrowers, within sixty days after they are purchased, so that they are loans it is empowered to grant;
 - (2) Eligible obligations of a liquidating credit union's individual members, from the liquidating credit union;
 - (3) Student loans, from any source, if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market; and
 - (4) Real estate-secured loans, originating from any source, if the purchaser is granting real estate-secured loans on an ongoing basis and loans will be sold to the secondary market in the same manner as loans to the credit union's members, and loans sold include a substantial portion of loans to the credit union's members.
- b. A credit union may make purchases in accordance with this subsection provided:
 - (1) The board of directors or investment committee, loan committee, or credit manager approves the purchase; and
 - (2) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchaser's office; and for purchases under paragraph 2 of subdivision a, any advance written approval from the national credit

union administration required by section 741.8 of national credit union administration rules and regulations is obtained before consummation of such purchase.

- c. The aggregate of the unpaid balance of eligible obligations under this subsection cannot exceed five percent of the unimpaired capital and surplus of the purchaser. The following can be excluded in calculating this five percent limitation:
 - (1) Student loans purchased in accordance with paragraph 3 of subdivision a;
 - (2) Real estate loans purchased in accordance with paragraph 4 of subdivision a;
 - (3) Eligible obligations purchased in accordance with paragraph 1 of subdivision a that are refinanced by the purchaser so that it is a loan it is empowered to grant; and
 - (4) An indirect lending or indirect leasing arrangement that is classified as a loan and not the purchase of an eligible obligation because the credit union makes the final underwriting decision and the sales or lease contract is assigned to the credit union very soon after it is signed by the member and the dealer or leasing company.
2. **Sale.** A credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph 2 of subdivision a of subsection 1, student loans purchased in accordance with paragraph 3 of subdivision a of subsection 1, and real estate loans purchased in accordance with paragraph 4 of subdivision a of subsection 1, within the limitations of the board of directors' written sale policies, provided:
 - a. The board of directors, investment committee, loan committee, or credit manager approves the sale; and
 - b. A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.
3. **Pledge.**
 - a. A credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph 2 of subdivision a of subsection 1, student loans purchased in accordance with paragraph 3 of subdivision a of subsection 1, and real estate loan purchased in accordance with paragraph 4 of subdivision a of subsection 1, within the limitations of the board of directors written pledge policies, provided:
 - (1) The board of directors, investment committee, loan committee, or credit manager approves the pledge;
 - (2) Copies of the original loan documents are retained; and
 - (3) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.
 - b. The pledge agreement shall identify the eligible obligations covered by the agreement.
4. **Servicing.** A credit union may agree to service any eligible obligation it purchases or sells in whole or in part.
5. **Ten percent limitation.** The total indebtedness owing to any credit union by any person, inclusive of retained and reacquired interests, shall not exceed ten percent of its unimpaired capital and surplus.

History: Effective January 1, 2007; amended effective January 1, 2013; April 1, 2022.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06