

CHAPTER 13-03-05 MERGERS

Section

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13-03-05-00.1. Definitions.

1. "Continuing credit union" means the credit union whose charter continues upon merging with the merging credit union.
2. "Merging credit union" means the credit union whose charter ceases to exist upon merging with the continuing credit union.

History: Effective August 1, 1993.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-36, 6-06-37

13-03-05-01. Procedure.

Any state-chartered credit union planning to merge shall follow and comply with the following procedure:

1. The board of directors of each state-chartered credit union shall pass a resolution by a majority of the directors, in favor of the merger, stating specific terms, if any.
2. The resolution shall be submitted to the entire membership of the affected credit unions at the time of and accompanying the notice of a regular or special meeting, and must be approved by a majority of the membership of each affected credit union present at the meeting. The state credit union board, in the exercise of the board's discretion, may suspend this subsection when such suspension is in the best interests of the affected credit unions and their members. Alternatively, the commissioner, in the exercise of the commissioner's discretion, may temporarily suspend this subsection until after approval is obtained from the state credit union board, if the merging credit union is federally chartered.
3. An application to merge must be filed with the state credit union board to approve the merger by the proper officials of each of the credit unions.
4. At least thirty days prior to the date of consideration of the application by the state credit union board, the secretary of the board shall notify all credit unions within a seventy-five-mile [120.7-kilometer] radius of the continuing credit union's home office and each county in which the merging credit union maintains its principal office or a branch. The notice must specify the names and locations of both the merging credit union and the continuing credit union, and the time and place of the board meeting at which the proposed merger will be considered. Interested credit unions will be given an opportunity to comment on the proposed merger in writing and at the meeting at which the proposal is considered. The board may, when it believes it to be in the public interest, request a hearing be held. Notice of hearing on an application will, if requested, be at least thirty days prior to the hearing. Notice of the proposed

merger does not have to be given or a hearing held when the continuing credit union is to receive assistance from the national credit union administration.

5. All laws and regulations of the national credit union share insurance fund applicable to merging insured credit unions must be complied with before the merger is consummated.
6. Upon approval of the merger, the continuing credit union may apply to assume the field of membership of the merging credit union, pursuant to the requirements of chapter 13-03-14.

History: Amended effective February 1, 1981; August 1, 1993; January 1, 2019.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-36, 6-06-37

13-03-05-02. Determination by board - Surrender of charter.

Repealed effective August 1, 1993.

13-03-05-03. Compatibility with other laws and rules.

Repealed effective August 1, 1993.

13-03-05-04. Considerations for approval.

In considering the application for merger, the board shall examine and consider all relevant factors including:

1. Whether proper notification has been given to all members, unless the membership meeting has been waived by the board.
2. The comments of the members of each credit union to be merged.
3. The financial condition of the continuing credit union.

In the event that a merging credit union is a failing institution under North Dakota Century Code section 6-06-08.2, the board shall have the authority to waive any application requirements or considerations for approval otherwise mandated under rule. Additionally, if there is more than one potential merger partner for the failing institution, the board may give consideration to the credit union with a more similar field of membership or in closer proximity to the failing institution.

History: Effective August 1, 1993; amended effective January 1, 2013.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-36, 6-06-37, 6-06-08.2

13-03-05-05. Prohibitions.

Members of the board who are also directors, committee members, or staff of one of the merging credit unions, shall declare a conflict of interest and must abstain from voting on the merger application.

History: Effective August 1, 1993.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-36, 6-06-37

13-03-05-06. Determination by board - Surrender of charter.

When section 13-03-05-01 has been completed, the board, by order shall approve or disapprove the proposed merger, within thirty days after receipt of the application or within thirty days after the date of hearing if a hearing is conducted, and so advise the credit unions involved of its decision. If

approved, the merging credit union shall surrender its charter to the commissioner, who shall forward it to the secretary of state for cancellation.

History: Effective August 1, 1993.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-36, 6-06-37

13-03-05-07. Compatibility with other laws and rules.

Nothing in this chapter shall be deemed to be in conflict with the applicable federal regulation or North Dakota law governing mergers of credit unions.

History: Effective August 1, 1993.

General Authority: NDCC 6-01-04, 6-06-36, 6-06-37

Law Implemented: NDCC 6-06-36, 6-06-37