

FULL NOTICE OF INTENT TO ADOPT, AMEND, AND REPEAL ADMINISTRATIVE  
RULES

TAKE NOTICE that the State Credit Union Board and State Banking Board will hold a public hearing to address proposed new, amendments to, and the repeal of sections in Title 13 of the North Dakota Administrative Code. The hearing will be held on December 17<sup>th</sup>, 2021 at 9:00 AM in the Conference Room of the Department of Financial Institutions at 1200 Memorial Hwy, Bismarck ND. The proposed new rules, amendments, and repeals address the following:

| <b>Section</b> | <b>Description of Change</b>  | <b>Purpose</b>  |
|----------------|---|---|
| 13-01          | Deletes administrative code which is duplicative of century code. Eliminates references to specific positions and organization structure. Also removes a specific reference to a former office location no longer occupied by the department. | Reduces redundant and unnecessary rules and allows organizational efficiency. |
| 13-01.1-01-02  | Removes a specific reference to a former office location no longer occupied by the department.  | Eliminates reference to a former location.                                    |
| 13-01.1-01-03  | Removes a specific reference to a former office location no longer occupied by the department.  | Eliminates reference to a former location.                                    |
| 13-01.1-01-12  | Removes a section specific reference to facsimile transmission of records and adds a provision addressing all types of digital records.   | Amended to address all digital records.                                       |
| 13-01.1-01-14  | Adds a provision addressing treatment of all types of digital records.  | Amended to address all digital records.                                       |
| 13-03-01.1-02  | Removes a specific reference to a former office location no longer occupied by the department.  | Eliminates reference to a former location.                                    |
| 13-03-01.1-03  | Removes the requirement for the submission of duplicative copies of applications or administrative hearings documents.  | Improves organizational efficiency.   |

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| 13-03-02-02 | Expands the types of properties that can be taken as collateral and updates appraisal requirements consistent with federal law changes.  | Increases credit options for consumers and to reflect changes in federal law.                |
| 13-03-03-01 | Removes reference to an outdated rating system, replacing it with the current rating system.   | References current rating system in use.   |
| 13-03-04-01 | Amends fixed asset definition to better reflect federal terminology.   | Consistency with federal rule.   |
| 13-03-04-02 | Amends procedures to allow for a second method of fixed assets limit calculation previously allowed for in other sections of rule.   | Amend this section of rule to be consistent with other rule sections.                        |
| 13-03-04-03 | Amends procedures to allow for a second method of fixed assets limit calculation previously allowed for in other sections of rule.   | Amend this section of rule to be consistent with other rule sections                         |
| 13-03-05-01 | Makes clear the field of membership can be assumed during a merger by election, not application.   | Removes confusion between administrative code and century code language.                     |
| 13-03-05-04 | Removes vague language making field of membership a potential consideration, but not absolute requirement for consideration, by the State Credit Union Board during a merger of a troubled credit union. | Removes vague language leaving financial condition and member comments as decision criteria. |
| 13-03-06-01 | Replaces the term "Risk Based net worth" with "Risk Based Capital requirement".  | Reflects federal changes.  |
| 13-03-06-04 | Replace "net worth" with "capital".  | Reflects federal changes.  |
| 13-03-14-05 | Makes clear field of membership can be assumed during a merger for both common bond and geographic fields of member.   | Makes clear this is an option consistent with century code language.                         |

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| 13-03-15-04 | Allows for branch applications to be approved by either the State Credit Union Board or the Commissioner, establishes an appeals process, removes notice requirements and approval criteria which may require the board to limit industry competition.                               | Improves operational efficiency and ensures limiting competition is not criteria for approval or denial.         |
| 13-03-15-05 | Allows for the waiver of criteria for failing institutions by the State Credit Union Board or the Commissioner.  | Improves operation efficiency.   |
| 13-03-15-07 | Makes clear a credit union can close a branch due to an emergency or epidemic and outlines a notice requirement.   | Clarifies the authority within code.   |
| 13-03-21-02 | Allows credit unions to purchase eligible obligations and real estate secured loans from outside of North Dakota.  | Makes authorizations consistent with federal authorizations.   |
| 13-03-22-01 | Adds and amends definitions necessary to allow for the purchase of financial derivatives.  | Increases the products allowed to manage risk.   |
| 13-03-22-02 | Allows for the purchase of bonds originating outside of North Dakota. Amends the rating requirements to be consistent with bank bond rating requirements. Eliminates a reference to the Libor Rate. Allows for the purchase of derivative products and charitable donation accounts. | Makes authorizations consistent with federal authorizations and to allow for products to manage risk.            |
| 13-03-22-03 | Removes derivatives from the list of prohibited investments. Makes clear prohibition on small business-related securities is on the residual interest.   | Increases the products allowed to manage risk. Makes residual interest prohibition consistent with federal rule. |
| 13-03-22-04 | Makes clear engaging in trading securities must be with products permissible to own.   | Clarifies rule language.   |
| 13-03-22-06 | Makes clear policy requirements could be part of different types of policies.  | Clarifies rule language.   |

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| 13-03-22-07 | Requires all credit unions to follow Generally Accepted accounting Principles, removing reference to the federal accounting manual. | Reflects changes to federal rule.              |
| 13-03-22-15 | Establishes the framework for a derivative program at a credit union. Framework similar to the federal structure.                   | Increases the products allowed to manage risk. |
| 13-03-22-16 | Allows for the investment in charitable donation accounts consistent with federal rules.  | Increases investment options.                  |
| 13-03-24-02 | Requires board approval to purchase bond coverage.  | Consistent with federal rule.                  |
| 13-03-24-03 | Outlines the types of bonds, the requirement, and what the bond must cover.   | Consistent with federal rule.                  |
| 13-03-24-04 | Outlines the types of bonds, the requirement, and what the bond must cover.   | Consistent with federal rule.                  |
| 13-03-24-05 | Outlines the types of bonds, the requirement, and what the bond must cover.   | Consistent with federal rule.                  |
| 13-03-25-01 | Removes outdated terminology and adds terms to the definitions consistent with federal rule changes.                                | Consistent with federal rule.                  |
| 13-03-25-03 | Removes outdated audit options adds minimum audit processes, adds audit options.  | Consistent with federal rule.                  |
| 13-03-25-05 | Allows for greater flexibility in the timing of the audit delivery.   | Consistent with federal rule.                  |
| 13-03-28-02 | Allows for the capitalization of interest on workout loans and establishes parameters for the practice.                             | Consistent with federal rule.                  |

The proposed rule, amendments, and repeals are not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the office of the Department of Financial Institutions, 1200 Memorial Hwy, Bismarck, ND 58504 or by visiting our website at [www.nd.gov/dfi](http://www.nd.gov/dfi). A copy of the proposed rules and/or a regulatory analysis may be requested by writing the above address, emailing [dfi@nd.gov](mailto:dfi@nd.gov) or calling (701) 328-9933. Written or oral comments on the proposed rules sent to the above address or telephone number and received December 31, 2021 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Financial Institutions at the above telephone number or address at least five days prior to the public hearing.

Dated this 3<sup>rd</sup> day of November, 2021.

State Credit Union Board  
and  
State Banking Board



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Corey Krebs, Secretary