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## Financial Institutions

### A MESSAGE FROM COMMISSIONER KRUSE



A few changes have been made that will impact credit unions. There is a change in exam procedures of which you will need to be aware. Also, we have completed a comprehensive review of the administrative rules affecting credit unions.

The revised rules will go into effect April 1, 2022, and we are providing a review of each change within this newsletter as well as the reasoning. The Department has created further consistency with our federal counterpart to eliminate confusion, and modernized language so we are responsive to a changing industry. Thank you for providing input and thoughts as we have worked through this process.

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## CHANGES AFFECTING YOU

### **Compatible Data for Examinations**

The NCUA and the DFI have transitioned to a new examination software platform (MERIT). The process for uploading the loan and share download has changed. The loan and share data file fields must be consistent with the fields in NCUA Letters to Credit Unions [03-CU-05](#). Please reach out to your core processor to ensure your loan and share downloads are properly configured. Additionally, you will be required to fill out mapping spreadsheets for [loan coding](#) and [share coding](#) purposes, which is something that can be done well in advance of an examination. Completing these steps early should help reduce your workload during your next examination.

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*Our Mission: To maintain public confidence in North Dakota financial institutions by ensuring the financial industry operates in a safe and sound manner while complying with applicable rules and laws.*

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### **Administrative Rules Changes**

The State Credit Union Board and the Department have just completed an update to the North Dakota Administrative Code Rules. The purpose of the changes was to respond to federal rule changes, modernize dated language, and to address several requests made by the industry. The changes are effective April 1<sup>st</sup> and a redline of the changes can be found on pages 1-43 of the [North Dakota Administrative Code Supplement](#). The published rules on the [Legislative Council's web](#) page will be updated to reflect these changes after April 1<sup>st</sup>. A summary of the changes is as follows:

13-01, 13-01.1-01-02, 13-01.1-01-03 and 13-03-01.1 are being repealed. These chapters and section outline a number of specific procedures which are either duplicative of the North Dakota Century Code (NDCC) or details which may change over time such as the department's mailing address. Inclusion of these details did not provide any information not otherwise available thus repealing these was the simplest resolution to the issue.

13-01.1-01-12 related to faxes is being repealed and a more encompassing 13-01.1-01-14 related to all duplication and digital records is being created. This makes clear the confidentiality of digital consumer and credit union records consistent with North Dakota Century Code.

13-03-2 allows credit unions to mortgage property owned in a form other than fee simple, and also updates appraisal requirements to reflect federal law changes.



## CHANGES AFFECTING YOU-CONTINUED

### **Administrative Rules Changes-Continued**

13-03-03-01 updates the code to reflect the CAMELS rating system.

13-03-04 relates to a credit unions' investment in land and buildings. The terminology was updated to reflect federal call report terminology and to reflect changes made to other parts of the administrative code in 2019.

13-03-05 – Makes clear the assumption of a field of membership during a merger is an election, not an application which is consistent with NDCC. This also removes the field of membership as factor for consideration during the resolution of a failed credit union.

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*“There’s a way to do it better—find it!” - Thomas A. Edison*

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13-03-06 – Risk-based net worth is changed to Risk-based capital to reflect federal change in terminology.

13-03-14 – Makes clear the field of membership can be assumed during a merger for both open charter or closed charter credit unions consistent with the NDCC.

13-03-15 – Speeds up the process of branch approval. This eliminates steps in the process including the requirement to publish, and allows the commissioner or board to approve, consistent with the process outlined in bank rules. This also makes clear flexibility to the operations requirements during a public emergency, allowing a credit union to temporarily close a branch with notice to the Commissioner.

13-03-21 – Eliminates the restriction on eligible obligations to just North Dakota, consistent with federal rule.

13-03-22 – Removes the reference to the federal government’s now rescinded accounting manual. Removed the prohibition from purchasing financial derivatives and replaced it with a regulatory framework based on the federal framework for the activity. A notable difference from the federal derivative frameworks is that this state rule allows you to enter contracts with individual member borrowers to hedge the risk of a specific loan transaction. The changes also add charitable donation accounts to the list of investments, previously allowed via board order, and again using the federal rule as the framework.

13-03-24 – Changes the rule to reflect federal rule changes related to bond requirements.





## DEPARTMENT OF FINANCIAL INSTITUTIONS

The Department of Financial Institutions traces its lineage to the creation of a Public Examiner in 1887. A detailed chronology of the Department and its predecessors can be found in the archives of the State Historical Society: <http://history.nd.gov/archives/stateagencies/Bankingandfinancial.html>

Through the Bank and Credit Union divisions, the Department has charge of the execution of all laws relating to state-chartered banks, trust companies, and credit unions. The Commissioner, in conjunction with the State Banking Board (seven members) and State Credit Union Board (five members), provides supervisory authority over North Dakota state-chartered banks and credit unions. All members of these Boards are appointed by the Governor. The Commissioner is appointed by the Governor and confirmed by the North Dakota Senate and serves as the Chair of each Board. The Department's Consumer Division regulates money brokers, mortgage loan originators, deferred presentment service providers (payday lenders), collection agencies, debt settlement service providers, and money transmitters.

Our mission is to maintain public confidence in North Dakota financial institutions by ensuring the financial industry operates in a safe and sound manner while complying with applicable rules and laws. Our vision is a safe, secure and competitive financial services environment, which promotes the economic well-being of North Dakota businesses and consumers.

The Department is committed to maintaining a standard of excellence in meeting its regulatory responsibilities. In 1993, the Department was accredited by the Conference of State Bank Supervisors (CSBS). In 2000, the Department was accredited by the National Association of State Credit Union Supervisors (NASCUS). In 2015, the Department received a certificate of accreditation from the CSBS/AARMR (American Association of Residential Mortgage Regulators) Mortgage Accreditation Program. Accreditation is only accorded to state regulatory agencies that meet minimum standards established by these accrediting organizations. Once obtained, the Department is subject to a re-accreditation process every five years after the initial accreditation.

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## CHANGES AFFECTING YOU-CONTINUED

### Administrative Rules Changes-Continued

13-03-25 – Changes to reflect federal rule change eliminating specific audit report delivery date requirements and replaced a reference to the federal supervisory committee guide which has been rescinded and replaced it with specific criteria, consistent with the federal requirement.

13-03-28 – Removed the prohibition on the capitalization of interest and replaced it with the now federally required framework required if interest is capitalized.



### Facts and Figures

As of December 31, 2021

- Average Adversely Classified Loans to Equity Ratio: 22.18%
- Average Adversely Classified Loans to Loans Ratio: 4.61%
- Average Adversely Classified Loans to Assets Ratio: 3.00%
- Average Allowance for Loan and Lease Loss to Loans Ratio: 1.26%
- Average Delinquency Ratio: 0.40%

Averages are of the 20 North Dakota state-chartered credit unions. Classification averages are rolling averages.