Regulatory Statement

Consent to Credit Union Amalgamation: Application Requirements

Regulatory Statement Number	CU-18-001
Legislation:	*Credit Union Incorporation Act*
Date:	April 1, 2018
Distribution:	All Authorized BC Credit Unions

PURPOSE

This Regulatory Statement ("Statement") outlines the application process by which two or more credit unions may obtain consent from the BC Financial Services Authority ("Authority") to amalgamate and continue as a new credit union.

This Statement includes:

- application prerequisites;
- consent application process and required documentation;
- communications requirements; and
- submission instructions.

LEGISLATION

Section 20 of the *Credit Union Incorporation Act* ("CUIA") outlines the legislative requirements whereby two or more credit unions amalgamate together to form a new credit union.

Pursuant to the Section 20 of the CUIA, two or more credit unions may amalgamate provided that:

- the Authority consents to the proposed Amalgamation Agreement;
- the members and, if applicable, other equity shareholders authorize the transaction by Special Resolution(s); and
- the executed Amalgamation Agreement and certified Special Resolution(s) are filed by the British Columbia Registry Services ("Registry").

The Authority must consent to the amalgamation prior to the presentation of the proposed transaction to members of the credit unions.

The BCFSA's mandate includes protecting depositors and maintaining stability within the credit union sector of British Columbia. When assessing an application for amalgamation, BCFSA staff will consider the following:

• evidence that the Board of Directors ("Board") of all participating credit unions have considered multiple strategic options prior to the determination to seek consent for amalgamation;

• whether the new credit union will function well and continue to meet supervisory expectations;

• the continuity and quality of services that will be provided to members during integration and after amalgamation;

• the fulsomeness and transparency of the communications to members of each participating credit union and the level of engagement with members; and

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• the potential impact of the transaction on the credit union system.

BCFSA expects that credit unions considering amalgamation to communicate with BCFSA staff prior to submitting an application for consent.

REQUIREMENTS

Step One: Application for Consent to Amalgamation

Applications submitted to BCFSA should contain the following materials:

- non-refundable application fee of $5,000 payable to BCFSA;
- Amalgamation Agreement that meets the requirements set out under Section 20 of the CUIA;
- business case that includes the following information:
    - proposed corporate (legal entity) structure;
    - proposed governance structure (Board and senior management);
    - strategy that the new credit union plans to undertake;
    - member services and product offerings
    - detailed analysis of key risks facing the new entity and fulsome mitigation plans for material risks;
    - Enterprise Risk Management dashboard and Risk Appetite Statement;
    - Key internal control and risk policies;
    - Capital Policy (including capital contingency plan), Liquidity Policy (including liquidity contingency plans), Investment & Lending Policy;
    - the implementation and integration plans outlining the banking system, audit, and accounting integration, and control of operational risk during transition;
    - financial model for a three-year forecast horizon including all key assumptions (supporting rationale and calculations where applicable), detailed breakdown of costs, demonstration of value of the proposed amalgamation (quantitative and qualitative measures), sensitivity analysis, and all working papers; and
    - pro forma financial statements including consolidated financial statements and capital and liquidity projections.
- independent due diligence conducted by each credit union:
    - rationale for pursuing amalgamation;
    - detailed analysis of strategic options and exploration of potential drawbacks that could result from the transaction;
    - full review of the partner credit union(s) including analysis of differences in risk appetite and tolerances, must be fulsome enough to identify all material risks;
    - supporting documentation such as reports written by third party experts; and
    - the Board of each credit union is accountable for ownership of the independent due diligence, even in the event that elements of the due diligence are outsourced.
- draft copies of the Notice to Members and Special Resolution(s);
- all other communications, including the member and employee engagement strategies for each participating credit union; and
- individual share valuations conducted on investment shares including an opinion and supporting report from an individual or firm accredited in business valuation where applicable (not required if the par value of investment shares is provided for in the credit union's Rules).

While this Statement provides direction to credit unions on the base requirements of an application for Consent to amalgamation, additional information may be required as deemed necessary by BCFSA staff in order to appropriately assess the proposed amalgamation.

Step Two: Communications to Members

If the Authority provides consent to the Amalgamation Agreement, each credit union must submit the Amalgamation Agreement to its members for approval by Special Resolution.

If the credit union has issued any class of equity shares in addition to its membership equity shares, then the proposed Amalgamation Agreement must be submitted to holders of each class of equity share for approval by a separate Resolution.

BCFSA expects a high level of transparency and engagement between the credit unions and their members and employees in respect of a proposed amalgamation. All communications must be reviewed by the Board and submitted to BCFSA for review prior to being placed before members or employees. This may include marketing materials accompanying the Notice to Members, the communications plan and engagement strategy, internal communications and Notice provided to creditors.

Each credit union should pay particular attention to the commitments articulated in communications to stakeholders to ensure that there is no contradiction with the Amalgamation Agreement or strategic plans.

Notice to Members

Section 78(1) of the CUIA provides that a credit union must give at least 18 days notice of each Special Resolution to every member of the credit union and to the Superintendent of Financial Institutions ("Superintendent").

An effective Notice to Members must include information sufficient for members to make an informed vote and should clearly state that the membership is being asked to vote on approving an amalgamation. As owners, members should be informed as to how such a change will affect their interests and that of the credit union.

At a minimum, the Notice should include the following information:

- key provisions of the Amalgamation Agreement;
- the proposed Resolutions;
- benefits and risks of the transaction to the members;
- the services that will be provided to members by the new entity and the date of commencement;
- costs directly attributable to the amalgamation including disclosure of management incentives and all potential employee severance costs;
- confirmation that all deposits will continue to be insured under the Credit Union Deposit Insurance Corporation ("CUDIC");
- the governance structure of the new corporate entity;
- a copy of the Letter of Consent issued by the Authority;
- how the voting will be conducted under the CUIA and the credit unions' Rules; and
- instructions to members should they wish to request additional information.

A copy of the full Amalgamation Agreement must be made available to members. This may be as an attachment to the Notice and may be provided online and in branch. The Board may include a statement in support of the amalgamation separately in the Notice package; however, the Notice must be the most prominent communication.

Communications to stakeholders must not imply that the Authority has approved the merits of the amalgamation or that it considers the transaction to be in the best interests of the credit union or its members.

Notice to Members of Special Rights to Redeem Equity Shares

If a credit union proposing to amalgamate has issued a class of equity shares other than membership shares, it must provide notice to each shareholder declaring their right to redeem their shares under Section 24(2) of the CUIA. If a shareholder exercises their right of redemption, the shares must be redeemed at the fair market value deemed under the Amalgamation Agreement.

Upon approval by the membership of the Resolution(s), the Amalgamation Agreement may be executed. Each credit union participating in an amalgamation must deliver three copies of each Resolution and the executed Amalgamation Agreement to BCFSA. The Authority will certify the Resolution(s) and the Amalgamation Agreement. Subsequently, the credit unions must submit the certified documents to the BC Registrar.

INSTRUCTIONS

To make an enquiry or to request a meeting with BCFSA staff in respect of an application, please contact Statutory Approvals at statapprovals@bcfsa.ca or at (604) 398-5034.

All notices, information or documentation referenced in this Statement may be submitted via the Integrated Regulatory Information System ("IRIS"), a secure portal through which regulated entities may provide information to BCFSA. IRIS, as well as instructions on how to set up an account and submit an application through IRIS, may be accessed on BCFSA's website.

Application fees may be paid in IRIS by credit card (Visa or Mastercard). Payment by credit card through IRIS is an integrated part of a submission and will be remitted when the applicant submits the required application materials. Please contact statapprovals@bcfsa.ca for instructions on how to remit payment if you wish to pay an application fee by electronic fund transfer, wire, or cheque.