



State of Rhode Island
Department of Business Regulation



DIVISION OF BANKING

Please submit this filing along with all required responses and attachments in PDF form to;

DBR.Bankinquiry@dbr.ri.gov

If you have any questions, please contact the Division at; 401-462-9503

**CREDIT UNION REQUEST FOR APPROVAL OF MERGER
PURSUANT TO R. I. GEN. LAWS § 19-5-24**

Filed by: _____

(Merging Credit Union)

(Surviving Credit Union)

Date of Filing: _____

REQUEST IS HEREBY MADE TO THE DIRECTOR OF THE DEPARTMENT OF BUSINESS REGULATION FOR APPROVAL TO MERGE PURSUANT TO R. I. GEN. LAWS §19-5-24. THE FOLLOWING INFORMATION MUST BE FILED WITH THE DIVISION OF BANKING.

1. A Plan for the Proposed Merger Which Includes at a Minimum the Following:

- a) Financial statements of both credit unions dated not more than sixty days prior to the request date.
- b) Pro forma budget, balance sheet, and income statements for the surviving credit union for the next three (3) calendar years.
- c) Current delinquent loan schedules annotated to identify collection problems for both credit unions.
- d) Current (pre-merger) and pro forma (post-merger) analyses of share values (Solvency Evaluation Ratios) of both credit unions participating in the merger.
- e) Explanation of any proposed share adjustments.
- f) Explanation of any provisions for reserves, undivided earnings, or dividends.
- g) Provisions with respect to notification and payment to creditors of the merging credit union.
- h) Explanation of any changes relative to services and benefits offered.
- i) Amounts and details of any contingent liabilities, any litigation, or other contingencies for each credit union.
- j) Detailed plans and procedures which identity the respective responsible persons and tasks assigned to implement the integration of the two credit unions.
- k) The impact of the merger on facility maintenance/closing and employment levels.
- l) Statement of purpose for the merger.

♦♦♦ Note all financial information must be presented in compliance with US Generally Accepted Accounting Principles (GAAP), especially FAS 157, FAS 141, and / or any successor

- pronouncements ♦♦♦**
- 2.** Certified copies of resolutions of the respective boards of directors, in triplicate, which indicates approval of the Plan of Merger by at least a 2/3 majority of the those board members, of each credit union participating in the merger, present at a meeting called for the purpose.
- 3.** A certified copy of The Executed Merger Agreement, in triplicate.
- 4. Evidence of Membership Votes:**
- a) A certified copy of affirmative vote of two thirds (2/3) of the members of the merging credit union and, if applicable, of the members of the surviving credit union, at a meeting of the members, duly called for that purpose, of each credit union for which a vote of the members is applicable.
 - b) A certified copy of the Notice of the Meeting of the Members of the merging credit union and if applicable, of the surviving credit union, along with evidence that the notice was mailed to each member within the time frame specified in the bylaws of each credit union for which a vote of the members is applicable.
 - c) In lieu of a meeting of the members of the merging credit union and, if applicable, of the surviving credit union, the Secretary of the each credit union for which a vote of the members is applicable shall provide certification that a written vote of the members was taken, indicating the following:
 - 1. The number of members voting in favor, against, or abstaining on the merger question.
 - 2. That the vote in favor of the merger represented a minimum of two-thirds (2/3) of the members voting.
 - 3. That the number of members voting was at least equal to the number of members needed for a quorum at an annual or special meeting of the members of each credit union for a which a vote of the members is applicable.
- 5.** Evidence of approval or lack of objection to the merger by the National Credit Union Administration. In the case of a federal credit union participating in the merger: If the merger involves a federal credit union, provide evidence that the federal credit union has complied with the provisions of Part 708 of the National Credit Union Administration Rules and Regulations.
- 6.** A description of the due diligence procedures performed by each credit union participating in the merger.
- 7.** Copies of the most recent audited financial statements, if applicable, for each credit union participating in the merger.
- 8. Agreements Governing Credit Union Officials**

The surviving credit union as well as the merging credit union shall provide copies of any agreements and/or contracts with respect to the merging credit union's officials which address compensation, and official duties and responsibilities along with a statement of the financial impact

of such agreements and/or contracts on the surviving credit union and merging credit union. For purposes of this merger request a credit union official includes a member of the board of directors, credit committee or supervisory committee as well as the executive officers (typically designated as chief executive officer, chief financial officer, president, executive vice president, vice president, etc.) of the merging credit union.

9. Labor Contracts

The continuing financial institution shall provide an explanation of the legal and financial impact that any labor contracts to which the merging financial institution is a party may have on the continuing financial institution.

10. A Certificate of Merger - in triplicate (Originals must be on white Card Stock).

11. The Hart Scott Rodino Anti-Trust Improvement Act of 1976 (“HSRA”)

The HSRA is an amendment to the Clayton Act that prohibits Credit Unions to which it applies from acquiring the securities and assets of another person unless both Credit Unions file pre-merger notification with the Federal Trade Commission (“FTC”) at least thirty (30) days prior to the acquisition. The HSRA applies a size of person test and a size of transaction test. The size of person test is met if one of the Credit Unions has assets of at least \$100 million (as adjusted) and the other Credit Union has assets of at least \$10 million (as adjusted). The size of transaction test is met if, as a result of the acquisition, the acquiring Credit Union would hold assets of the acquired Credit Union valued at more than \$50 million (as adjusted). The FTC publishes adjustments to the statutory thresholds for the size of person and size of transaction tests annually each January. See 16 C.F.R. § 801.1(m). The Credit Unions involved in the Spin-off must provide evidence of compliance with the HSRA or indicate why it is inapplicable to their proposed transaction.

While the FTC has not indicated a particular emphasis on enforcing this Act against Credit Unions, it is within their regulatory prerogative and the Credit Unions to which it applies should comply with any notice requirements. Credit Unions above the thresholds should contact the FTC for details on the notice requirement.

12. Surety Bond

The surviving credit union must provide evidence that it has reviewed its surety bond coverage to ensure compliance with R. I. Gen. Laws §19-2-19 and Banking Regulation 98-2. The review must address, at a minimum the following:

- a) That the surviving credit union will have the minimum dollar amount of coverage as of the effective date of the merger.
- b) That the surviving credit union has notified its surety bond carrier of the pending merger.
- c) That the merging credit union will not cancel its surety bond coverage until the merger is complete.
- d) Information which may be required by the surety bond carrier by either the merging credit union or the surviving credit union carrier before the merger.

13. Certification by the President or Vice President and Secretary or Treasurer of the respective credit unions that the information contained in the request is true and that any schedules

provided correctly represent the true state of the several matters contained within the request to the best of their knowledge and belief.

POST APPROVAL PROCEDURES

Within thirty (30) days of approval by the Director of Business Regulation, applicant shall file with the Division of Banking evidence that the Articles of Merger, in triplicate, have been filed with the office of the Rhode Island Secretary of State. An original of the recorded Certificate of Merger shall then be filed with the Division of Banking.