

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.107(6), the Credit Union Division hereby adopts new Chapter 16, “Mergers,” Iowa Administrative Code.

The rules in this new chapter pertain specifically to spin-offs under the statutory merger guidelines in Iowa Code section 533.401, as amended during the 2013 legislative session.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 7, 2015, as **ARC 1816C**.

The Division received one written public comment, and two presenters appeared at the public hearing the Division held on January 27, 2015. Those comments were taken into account in revising the final version of the rule making, specifically regarding providing greater certainty and clarity to credit unions utilizing the criteria in the rules, and expressly addressing the quorum issue. In addition, the Division appeared before the Administrative Rules Review Committee on February 6, 2015, where additional issues concerning retention of credit union membership were raised. Those issues, too, are addressed in the adopted rules.

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state.

These rules are intended to implement Iowa Code section 533.401.

These rules will become effective on April 8, 2015.

The following amendment is adopted.

Adopt the following new 189—Chapter 16:

CHAPTER 16
MERGERS

189—16.1(533) Spin-offs. A spin-off occurs during a merger process when, by agreement of the parties to the merger, a portion of the field of membership, assets, liabilities, shares, and capital of one credit union is transferred to another credit union. A spin-off of a well-defined segment or branch of a credit union’s membership to another credit union is an option undertaken to benefit the members of both credit unions. This process may occur with the physical transfer of one or more branches from one credit union to another credit union, but less than a complete merger of the two credit unions occurs. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

189—16.2(533) Plan requirements. All credit unions proposing a merger plan that would result in a spin-off must file, in addition to other merger documents detailed by the division, a plan that addresses the following points, at a minimum, in support for their spin-off plan:

- 16.2(1)** Why the spin-off is being requested.
- 16.2(2)** What part of the field of membership is to be spun off.
- 16.2(3)** Which assets, liabilities, shares, and capital are to be transferred.
- 16.2(4)** The financial impact of the spin-off on the affected credit unions.
- 16.2(5)** The ability of the acquiring credit union effectively to serve the new members.
- 16.2(6)** The proposed spin-off date.
- 16.2(7)** Disclosure to the members of the requirements set forth in this rule.

189—16.3(533) Additional requirements. In addition to the plan, the credit unions must include the most current monthly financial statements from both credit unions and a copy of the proposed voting ballot.

16.3(1) Membership notice and voting requirements shall be the same as for regular mergers under rule 189—12.6(533), with certain exceptions. Only those members directly affected by a spin-off, that

is, those members whose shares are to be transferred to the other credit union, are permitted to vote. A quorum is determined according to the quorum size for the credit union as a whole. In the notice of balloting sent to the members affiliated with any affected branch and field of membership, the credit union shall give notice of the right of any member who wants to remain as a member of the credit union to opt out of participating in the merger vote by giving written notice to the credit union at any time prior to the merger vote. The shares of members who opt out will not be transferred in the event the merger vote is successful. All other members of the group to be spun off, whether they voted in favor, against, or not at all, will be transferred if the spin-off is approved by the voting membership.

16.3(2) Members of the credit union who are not affiliated with the branch and field of membership being spun off and whose shares are not being transferred will not be afforded the opportunity to vote.

16.3(3) Spin-offs involving federally insured credit unions in different regions of the National Credit Union Administration must be approved by all regional directors where the credit unions are headquartered and by state regulators, as applicable.

These rules are intended to implement Iowa Code section 533.401.

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