

TITLE 230– DEPARTMENT OF BUSINESS REGULATION

CHAPTER 40 – BANKING

SUBCHAPTER 5 – FINANCIAL INSTITUTIONS AND CREDIT UNIONS

PART 3 - Credit Union Conversions

3.1 Authority

- A. This regulation (“Regulation”) is promulgated pursuant to the authority granted to the Rhode Island Department of Business Regulation (“Department”) by the Credit Union Conversion Act of 2001, R. I. Gen. Laws §§ 19-5.1-3(g), 42-14-17, and 42-35-1 et seq.

3.2 Purpose

- A. The purpose of this Regulation is to set forth procedures to carry out the provisions of R. I. Gen. Laws § 19-5.1-1 et seq. entitled Credit Union Conversion Act of 2001 (the “Act”) and to protect and preserve the interests and rights of members of a converting Credit Union. This Regulation establishes procedures, requirements, and options for the conversion of Credit Unions into other forms of Financial Institutions under the provisions of the Act or financial services entities chartered under the laws of the United States. The actions and information required by this Regulation are hereby declared to be necessary and appropriate to the public interest. Nothing contained in this Regulation shall limit the ability and authority of the Director to consider other information in determining whether or not to approve an application of a Credit Union to convert into another form of Financial Institution.

3.3 Definitions

- A. Unless otherwise provided by this Regulation or unless the context clearly requires otherwise, terms used in this Regulation shall have the same meaning as the terms as defined in R.I. Gen. Laws §§19-1-1 and 19-5-1. All terms defined in R.I. Gen. Laws §§ 19-1-1 and 19-5-1 are capitalized in this Regulation
1. "Director" means the Director of the Department of Business Regulation or his or her designee
 2. “Eligible Member”, for purposes of this Regulation, means a member as defined in the Credit Union’s by-laws and in the plan of conversion, as of a date designated in said plan of conversion which in no event shall be less than three (3) months prior to the

date of adoption of said plan of conversion by the board of directors of the Credit Union.

3. "Resulting Financial Institution", for purposes of this regulation, means the institution into which the converting Credit Union converts as described in the plan of conversion.

3.4 Provisions

- A. Credit Union Conversion into Mutual Form of Financial Institution. A Credit Union chartered under the Rhode Island General Laws may convert into a mutual form of Financial Institution or financial services entity chartered under the laws of the United States upon satisfaction of the following conditions:
 1. A plan of conversion is approved and adopted by at least a two-thirds (2/3) vote of the board of directors of the Credit Union;
 2. If applicable, demonstration of compliance with R.I. Gen. Laws § 19-2-1 et seq.;
 3. The plan of conversion and application for conversion is filed with the Director prior to the membership meeting and vote of the eligible members and the Director has given written approval of the proposed conversion;
 4. The plan of conversion is approved by a majority vote of those Eligible Members pursuant to R.I. Gen. Laws § 19-5-7 of the Credit Union present in person or by proxy at a meeting duly called by the board of directors of the converting Credit Union;
 5. The converting Credit Union shall file an application for approval of the plan of conversion in the form required by the Director and shall contain:
 - a. a copy of the minutes of the meeting of the board of directors approving and adopting the plan of conversion with the secretary's attestation;
 - b. all other application information and materials required to be submitted pursuant to this Regulation including, without limitation:
 - (1) a three (3) year business plan for the Resulting Financial Institution;
 - (2) the Credit Union's most recent financial statements;
 - (3) all information and materials required by or sent to the National Credit Union Administration;

- (4) all information and materials required by or sent to the Federal Deposit Insurance Corporation or other federal banking agency;
 - (5) all information and materials sent to the members of the converting Credit Union; and,
 - (6) any other information which the Director may require;
 6. All necessary regulatory approvals have been obtained and all conditions imposed by the Director in connection with the granting of the approvals have been satisfied; and,
 7. The deposits of any Resulting Financial Institution shall remain federally insured
- B. Interests of Members. The Agreement to Form, or bylaws of the Resulting Financial Institution shall confer upon existing members of the converting Credit Union and future depositors of the Resulting Financial Institution, to the extent not inconsistent with the laws applicable to the Resulting Financial Institution, substantially the same rights in the Resulting Financial Institution, including any liquidation rights in the Resulting Financial Institution under R.I. Gen. Laws § 19-5.1-3, as were conferred upon members of the converting Credit Union as in effect immediately prior to the conversion.
- C. Contents of the Plan of Conversion. Each plan of conversion shall contain a complete description of all significant terms of the proposed conversion, shall be made available to Eligible Members at least thirty (30) days prior to the vote on the conversion and shall:
 1. if necessary, provide for the organization of the Resulting Financial Institution, which shall be in the form of a Financial Institution in mutual form organized pursuant to R.I. Gen. Laws § 19-2-1 et seq. or federal law as the case may be, and shall attach and incorporate the proposed Agreement to Form or charter and bylaws of such Resulting Financial Institution;
 2. if necessary, in the case that the converting Credit Union proposes to form one or more holding companies, provide for the organization of one or more holding companies and attach and incorporate the proposed Agreement to Form or corporate charter and bylaws of such holding company or companies;
 3. if necessary, provide for amendment of the Agreement to Form or charter and bylaws of the Credit Union to be consistent with an Agreement to Form or charter and bylaws of a state-chartered Financial Institution or financial services entity chartered under the laws of the United States as

the case may be, and attach and incorporate such Agreement to Form or charter and bylaws;

4. provide that, upon consummation of the conversion, substantially all of the assets and liabilities, including all of its deposit liabilities, of the converting Credit Union shall be transferred to the Resulting Financial Institution;
 5. provide that each member and depositor in the converting Credit Union shall upon consummation of the conversion receive, without payment, an identical account in the resulting financial institution;
 6. provide that the plan of conversion as adopted by the board of directors of the converting Credit Union may be substantively amended by the board of directors, including as a result of comments from regulatory authorities, prior to the solicitation of membership approval and at any time thereafter with the concurrence of the Director and that the conversion may be terminated by the board of directors of the converting Credit Union at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Director;
 7. provide that the plan of conversion shall be terminated if not completed within a specified period of time, which shall not be more than 24 months from the date upon which the board of directors or the converting Credit Union approve the plan of conversion, and may not be extended by the converting Credit Union; and,
 8. provide that the corporate existence of a Credit Union converting to the Financial Institution or other financial services entity chartered under the laws of the United States shall be deemed to be a continuation of the corporate entity Credit Union so converted.
- D. Fairness of Plan of Conversion. The Director shall consider, among other things, the fairness of the plan of conversion to the members of the converting Credit Union. Factors considered by the Director to determine fairness may include, but are not limited to:
1. the adequacy of the disclosure materials;
 2. the form of the proxy statement required for the vote of the Eligible Members on the plan of conversion;
 3. the extent to which the application materials submitted to the Director conform with laws, rules or regulations of the Federal Deposit Insurance Corporation, the National Credit Union Administration, or other federal banking agency, as the case may be, as in effect at the time of submission of the application to the Director; and,

4. such other factors or information that the Director reasonably determines relevant to the conversion.

E. Disclosure materials.

1. At least thirty (30) days prior to the Credit Union providing any disclosure materials or plan of conversion to the Eligible Members of the converting Credit Union, the Credit Union shall submit such proposed disclosure materials to the Director for review and approval. The Director will either approve or provide comments with respect to the disclosure materials within thirty (30) days of receiving said disclosure materials. If the Director does not approve or provide comments within thirty (30) days from receipt thereof, the Credit Union may provide said disclosure materials to the eligible members. The disclosure materials to be submitted to the Eligible Members shall include at a minimum:
 - a. A statement of the reasons for the board of directors' decision to propose the conversion;
 - b. A statement of the major positive and negative business effects of the proposed conversion;
 - c. The impact of the conversion on the members' interest in the Credit Union; and
 - d. A disclosure of any conversion related benefit a director or senior management official may receive.
2. The disclosure materials and plan of conversion shall be made available to Eligible Members at least thirty (30) days prior to the meeting of the members called by the board of directors to consider the plan of conversion.
3. All written communications from a converting credit union to its members regarding the conversion must be written in a manner that is simple and easy to understand. Simple and easy to understand means the communications are written in plain language designed to be understood by ordinary consumers and use clear and concise sentences, paragraphs, and sections. For purposes of this section examples of factors to be considered in determining whether a communication is in plain language and uses clear and concise sentences, paragraphs and sections include the use of short explanatory sentences; use of definite, concrete, everyday words; use of active voice; avoidance of multiple negatives; avoidance of legal and technical business terminology; avoidance of explanations that are imprecise and reasonably subject to different interpretations; and use of language that is not misleading.

- F. Credit Union Conversion into Stock Form of Financial Institution. In addition to complying with the provisions of this regulation and specifically the requirements of § 3.4(A) of this Part, any Credit Union converting to or creating a stock form of Resulting Financial Institution or creating a mutual holding company, shall also comply with the provisions of regulations promulgated by the Department with respect to mutual Financial Institutions converting to stock form of ownership and mutual holding companies, respectively. For purposes of said regulations, references to depositors shall mean members of the Credit Union and references to mutual savings banks and mutual financial institutions, shall include Credit Unions.

3.5 Severability

- A. If any provision of this regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this regulation are severable.

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**TITLE 230 - DEPARTMENT OF BUSINESS REGULATION (INCLUDES
THE OFFICE OF THE HEALTH INSURANCE COMMISSIONER)**

CHAPTER 40 - BANKING

SUBCHAPTER 05 - FINANCIAL INSTITUTIONS AND CREDIT UNIONS

PART 3 - CREDIT UNION CONVERSIONS (230-RICR-40-05-3)

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