

### **§91.809. Purchase of Assets and Assumption of Liabilities.**

- (a) With approval of the Commissioner, a credit union may initiate a program of purchasing loans or assuming an assignment of deposits, shares, or liabilities from:
- (1) Any credit union
  - (2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or
  - (3) Any successor in interest to any institution identified in subsection (a)(1) or (a)(2) of this section.
- (b) Commissioner approval is not required for:
- (1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under NCUA regulations 12 C.F.R. §701.23(b)(1)(iii) or (iv), or purchases of member loans under §91.711 of this title (relating to Purchase and Sale of Member Loans);
  - (2) Assumption of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an insured credit union perfects a security interest in connection with an extension of credit to any member.
  - (3) Purchases of assets, including loans, or assumptions of deposits, shares, or liabilities from any deposit insured credit union, except a purchase or assumption as a part of a merger under §91.1003 of this title (relating to Mergers/Consolidations); or
  - (4) Purchases of loan participations as defined in and meeting the requirements of §91.805 of this title (related to Loan Participation Investments).
- (c) A credit union seeking approval under subsection (a) of this section must submit a letter application to the commissioner stating the nature of the transaction and describing the proposed program. The application must include:
- (1) Copies of relevant transaction documents;
  - (2) The credit union board's resolution approving the credit union to submit the application and engage in the proposed activity;
  - (3) Evidence that the credit union board has reviewed and approved the credit union's due diligence efforts;
  - (4) Proposed policies under which the program will operate, and which must comply with the requirements outlined in §§91.802(b), 91.803 and 91.808 (relating to Other Investments; Investment Limits and Prohibitions; and Loan Participation Investments);
  - (5) Demonstrated internal expertise to understand and mitigate the risks associated with the activity proposed;
  - (6) Evidence of requested approval by NCUA under NCUA regulations 12 C.F.R. §741.8, if federally insured, or bond covenants from American Share Insurance if necessary;
  - (7) Any other information relevant to the transaction and the program; and
  - (8) Information requested by the Commissioner or the Department.
- (d) A federally insured credit union purchasing assets or assuming liabilities of another entity must also comply with applicable requirements contained within the NCUA regulations 12 C.F.R. Part 741.
- (e) A credit union shall submit the letter of application as defined in subsection (c) of this section no later than 60 days prior to the planned closing date of any program-related transaction(s). Late applications may be considered when there are extenuating circumstances

deemed acceptable to the Commissioner. Final approval/disapproval shall be given in writing by the Commissioner and shall include the basis for the decision.