



Instruction Guide

Subject: Guide for Continuing a Local Cooperative Credit Society as a Federal Credit Union

Category: Application Guides

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Introduction

The Office of the Superintendent of Financial Institutions (OSFI) is responsible for administering a number of federal statutes, including the statute applicable to the regulation of federal credit unions (the [Bank Act](#) (BA)). A local cooperative credit society may continue as a federal credit union (an FCU) under the BA. As part of the regulatory process, OSFI assesses applications for continuance and makes recommendations to the Minister of Finance (the Minister), who has the ultimate responsibility for approving the continuance.

Purpose

This Guide sets out the two phases of the process to continue as an FCU under the BA along with the information that an applicant¹ is generally expected to submit in support of the requisite application to the Minister seeking the issuance of letters patent of continuance (Letters Patent) continuing the local cooperative credit society as an FCU.²

This Guide also sets out the various prudential, regulatory and legislative criteria and information requirements relative to the application for continuance as an FCU.³

One of the primary objectives of this Guide is to promote awareness and enhance the transparency of the assessment criteria and processes for continuance as an FCU.

¹ For the purpose of this Guide, any reference to applicant is to the local cooperative credit society seeking to continue as an FCU.

² Letters Patent will not be issued if the application is made by or on behalf of a local cooperative credit society controlled by Her Majesty or an agency of Her Majesty.

³ For the purpose of facilitating the continuance, the Minister may, on application and by order, exempt the local cooperative credit society from certain legislative requirements if the Minister is of the opinion that the local cooperative credit society has acted in a manner that substantially complies with the requirement (please see subsection 35.1(4) of the BA).



OSFI will generally evaluate a proposed continuance against the criteria in this Guide; however, as the particular circumstances and facts of each application are different, this Guide should not be viewed as an exhaustive set of criteria and information requirements.⁴ OSFI officers from the Legislation and Approvals Division and Deposit-Taking Supervision Sector jointly review and assess each application for continuance as an FCU.

A local cooperative credit society may also apply for continuance in order to immediately amalgamate with one or more local cooperative credit societies also applying for continuance or with an existing FCU.⁵ The applications for continuance and amalgamation will be considered together.

This Guide does not apply to:

- (i) the incorporation of an FCU or the continuance of a body corporate other than a local cooperative credit society as an FCU;
- (ii) the incorporation of, or continuance as, a bank other than an FCU or a federally regulated trust or loan company;⁶
- (iii) the incorporation of, or continuance as, a bank holding company; and
- (iv) the establishment of a foreign bank branch⁷ in Canada;

Prospective applicants are encouraged to contact OSFI for further information regarding the incorporation, continuance or establishment of these entities.

⁴ The BA provides broad authority to the Minister and the Superintendent of Financial Institutions to take into account all matters that they consider relevant in the circumstances related to the granting of any approval (please see section 973.01 of the BA).

⁵ Please see subsections 33(3) and (4) of the BA and paragraph I of Administrative Guidance below.

⁶ Please refer to the OSFI [Guide for Incorporating Banks and Federally Regulated Trust and Loan Companies](#) and the OSFI [Guide for Continuing a Body Corporate as a Bank or a Federally Regulated Trust or Loan Company](#).

⁷ Please refer to the OSFI [Guide to Foreign Bank Branching](#).

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General Overview

There are two primary approvals related to an application to continue a local cooperative credit society as an FCU in Canada: (i) the issuance of Letters Patent by the Minister⁸; and (ii) the making of an order to commence and carry on business (Order) by the Superintendent of Financial Institutions (the Superintendent).⁹

Application Process

The application process to continue a local cooperative credit society as an FCU in Canada is comprised of two phases related to the approvals noted above, the key elements of which are outlined below. The phased approach is intended to provide applicants with guidance and feedback both at the initial stages of the proposed application and throughout the application process.

Phase-1 (Pre-Application)

- Applicant meets with OSFI to discuss the proposed application.
- Applicant submits Phase-1 Information Requirements to OSFI for review and consideration.
- Applicant meets with OSFI for a detailed discussion of its submissions and proposed business plan.
- OSFI issues a letter to the applicant setting out its preliminary views and expectations regarding the proposed application.
- Applicant sends notice to members of upcoming vote on a special resolution authorizing an application for Letters Patent, as well as complying with any other relevant provisions of the [Disclosure on Continuance Regulations \(Federal Credit Unions\)](#).
- Members vote on special resolution authorizing application for Letters Patent.

Phase-2 (Letters Patent and Order)

- Applicant publishes a notice of intention to apply for Letters Patent.
- Applicant submits its formal application for Letters Patent to OSFI for review and consideration.¹⁰
- OSFI will generally request further information or details from the applicant and will meet with the applicant during the course of its review of the application.
- OSFI carries out its pre-commencement onsite review(s) of the applicant.
- If OSFI is satisfied that any material issues or concerns identified have been adequately addressed, OSFI submits its recommendation to the Minister regarding the issuance of Letters Patent.

⁸ Letters Patent are issued by the Minister upon recommendation of the Superintendent.

⁹ Please see section 27 of the BA and paragraph II of Administrative Guidance below.

¹⁰ No application is required in respect of an Order as the Superintendent is required to make the Order upon the issuance of Letters Patent (please see subsection 48(3) of the BA).

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- If Letters Patent are issued by the Minister, the Superintendent makes the Order.

Application Timeframes

While there is no specific time limit on the assessment of applications, OSFI endeavours to complete all application assessments as quickly as possible. The assessment of each application will depend on the specific facts and circumstances, and OSFI will communicate regularly with the applicant throughout this process.

In OSFI's experience, delays in receiving Letters Patent often result from the complexities presented in the application, the provision of incomplete information by the applicant in support of the application, and/or a failure on the part of the applicant to sufficiently address additional information requests from OSFI in a timely manner.

Applicants should also note that the timing in the latter stages of the application process will largely depend on the readiness of the applicant to begin business as an FCU, as verified during the pre-commencement on-site review(s).

Terminating Review of Application

OSFI may terminate its review of an application where, in OSFI's view, based on the quality of the applicant's submissions, and despite significant feedback from OSFI, the applicant is unable to satisfy the information requirements in support of the application. In this regard, applicants should note that they bear the onus of satisfying OSFI's information requirements in a timely, clear and complete manner.

Phase-1 (Pre-Application)

(i) Initial discussion with OSFI

Prior to submitting the formal application, a prospective applicant is requested to contact the Legislation and Approvals Division to schedule an initial in-person meeting with OSFI to discuss the proposed continuance and the application process.¹¹ This discussion provides an opportunity for OSFI to provide preliminary feedback regarding any apparent or potential regulatory, prudential or public policy issues.

The initial discussion also provides an opportunity for OSFI to clarify its processes and expectations regarding applications to continue as an FCU generally, along with any unique considerations that may be applicable to that particular prospective applicant.

To facilitate the initial discussion, a prospective applicant will generally be expected to provide the following written submissions prior to the meeting:

- (a) the reason(s) for which it intends to apply to continue as an FCU;
- (b) a brief overview of the proposed business strategy and target market as an FCU;
- (c) a listing of the entities in which the prospective applicant has, or proposes to have, a substantial investment¹² and a brief description of the business activities of these entities;
- (d) a description of any transitional relief that would be requested;¹³
- (e) a description of the prospective applicant's ownership structure, including details regarding the distribution of membership shares and shares, any proposed changes to the structure and sources of capital for initial and on-going financial support; and
- (f) a description of the proposed management team.

(ii) Submission of Phase-1 Information

OSFI will request the following information from a prospective applicant who, after the initial discussion, wishes to proceed with the application. OSFI's primary purpose in reviewing this information is to identify any fundamental issues that should be considered by the prospective applicant before or at the time of its Phase-2 application, including any significant prudential or policy concerns that may prevent OSFI from making a positive recommendation to the Minister for the issuance of Letters Patent.

¹¹ The contact information for OSFI's Legislation and Approvals Division is located on the final page of this Guide.

¹² Please see section 10 of the BA.

¹³ Please see section 39 of the BA and paragraph III of Administrative Guidance below.

1.0 Phase-1 Information Requirements

1.1 Applicant and Financial Strength

The prospective applicant is generally expected to provide:

- (a) the name of the jurisdiction and date of incorporation or establishment of the prospective applicant;
- (b) the current organization chart (with percentages owned) of the prospective applicant, showing entities in which the prospective applicant has a substantial investment¹⁴ (indicate by an asterisk whether any of the entities shown on the chart operate in Canada, and provide a summary of these operations);
- (c) for each entity in which the prospective applicant has a substantial investment, a detailed description of its business activities, and:
 - (i) if the prospective applicant is of the view that the entity is a “regulated entity”¹⁵, an analysis in support of the prospective applicant’s view, and
 - (ii) where the entity is not a “regulated entity”, a detailed analysis setting out why each of its business activities are authorized¹⁶ and not restricted¹⁷;
- (d) the names of all persons who have a significant interest¹⁸ in the membership shares, any class of shares or ownership interests in the prospective applicant and the percentage of membership shares, shares or ownership interests held;
- (e) the name of each person who may exercise, directly and through any entities controlled by that person, voting rights that exceed 10% of the aggregate of voting rights that may be exercised by members and shareholders, and the percentage of voting rights that may be exercised;
- (f) a summary of the current financial services and other key activities carried on by the prospective applicant and its subsidiaries, including a list of jurisdictions in which they operate and the nature and degree of regulatory oversight applicable to the financial services activities;
- (g) a copy of the most recent annual report of the prospective applicant;

¹⁴ Please see section 10 of the BA.

¹⁵ An entity is a “regulated entity” if it is listed in subsection 468(1) of the BA.

¹⁶ Business activities that are authorized are listed in subsection 468(2) of the BA.

¹⁷ Business activities that are restricted are generally listed in subsection 468(3) of the BA.

¹⁸ Section 8 of the BA defines significant interest. For the purpose of the ownership provisions of the BA, sections 9 through 9.2 of the BA provide that, where two or more persons are acting in concert, they will be deemed to be a single person.

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- (h) the audited consolidated financial statements of the prospective applicant for the last three years (balance sheet, income statement, statement of changes in members' and shareholders' equity); and
 - (i) details of whether the prospective applicant or any of its subsidiaries have been:
 - (i) denied a request to establish a financial institution or a branch in any jurisdiction, and
 - (ii) the subject of any criminal proceedings or administrative sanctions in any jurisdiction.

1.2 Business Plan

The prospective applicant is generally expected to provide a five-year business plan, including:

- (a) the reasons why the prospective applicant is seeking to continue as an FCU;
- (b) an analysis of target markets, opportunities and competitors, showing challenges, and plans to address them;
- (c) the reasons why the prospective applicant believes that it will be successful as an FCU, and the overall strategy for achieving this success, including a discussion of key assumptions;
- (d) the location(s) of the existing, and any proposed, branch(es)¹⁹ and head office of the prospective applicant in Canada;
- (e) a detailed description of each line of business to be conducted by the prospective applicant as an FCU and the products and services to be offered, including how the lines of business interrelate and how any new lines of business will be integrated with the prospective applicant's current business;
- (f) the metrics set out in OSFI's [Liquidity Adequacy Requirements \(LAR\) Guideline](#), including the Net Cumulative Cash Flow and Liquidity Coverage Ratio, for each year of the five-year business plan, including a breakdown of key elements used to calculate those metrics;
- (g) the risk-based capital and leverage ratios for each year of the five-year business plan, including a breakdown of all elements used to calculate those ratios and an analysis of the proposed capital instruments under OSFI's [Capital Adequacy Requirements \(CAR\) Guideline](#);²⁰

¹⁹ Please note that "branch" is defined in section 2 of the BA.

²⁰ Please also see OSFI's [Leverage Requirements Guideline](#). In preparing the *pro forma* financial statements, note that the initial authorized leverage ratio assigned by OSFI will depend on several factors but will typically fall within the 8 to 12 *per cent* range. Factors include the nature of the proposed business, the anticipated peer group risk

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- (h) five-year *pro forma* financial statements (base case²¹) for the prospective applicant as an FCU, including balance sheet, income statement, details regarding key assumptions and an identification of major asset, liability, income and expense categories;
 - (i) five-year *pro forma* financial statements showing the results of changes in key assumptions used in developing the base case business plan under a remote but plausible severe stress scenario²² and a discussion of the changes in assumptions;
 - (j) details regarding the expected costs to be incurred in preparing to commence business operations as an FCU;
 - (k) details regarding the incremental costs associated with being regulated as an FCU for each year in the five-year business plan;
 - (l) details regarding the current and proposed organizational structure including senior management reporting lines and key responsibilities within the organization;
 - (m) the current and proposed composition of the board of directors and senior management, and details regarding these persons; and
 - (n) a description of any current and proposed material outsourcing arrangements involving the prospective applicant, how these arrangements are, or would be, managed, and copies of any material outsourcing arrangement contracts expected to remain in place post continuance.²³

1.3 Other Requirements

The prospective applicant is generally expected to provide details regarding its current and proposed, as applicable:

- (a) credit products and the underwriting criteria for those products;

profile, the overall strength of the business plan, the effectiveness of the controls in place, the recent financial performance of the applicant, the level of initial capitalization and any sources of on-going financial support. Prospective applicants should discuss with OSFI the initial leverage ratio they intend to use to develop the business plan.

²¹ Where a prospective applicant intends to seek transitional relief (please see paragraph III of Administrative Guidance below), the prospective applicant is generally expected to provide a base case that factors in the requested transitional relief and a base case that does not factor in transitional relief. If this is the case, the information set out in 1.2(i) above should be provided for both base cases.

²² Prospective applicants should discuss with OSFI the stress scenario they intend to use. The financial statements are generally expected to address two cases under the stress scenario, one case where the FCU takes no action and a second case where the FCU acts to respond to the stress.

²³ Please see OSFI [Guideline B-10 - Outsourcing of Business Activities, Functions and Processes](#).

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- (b) trading and investment strategy;
 - (c) information technology environment; and
 - (d) contingency plan²⁴ in the event that it is unable to execute its business plan.

(iii) Business plan discussion with OSFI

A second in-person meeting with the prospective applicant will be scheduled once OSFI has had an opportunity to consider the information submitted under sections 1.1 to 1.3 above. The purpose of this meeting is for the prospective applicant to demonstrate an understanding of the material risks associated with its business plan and the methods by which it intends to mitigate those risks. Prior to the meeting, OSFI will provide the prospective applicant with an agenda and specific issues that the prospective applicant will be expected to address at the meeting.

(iv) OSFI Expectations Letter

Following the business plan discussion with OSFI, the prospective applicant will receive a letter setting out OSFI's views and expectations regarding:

- (a) any material risks or concerns with the proposed business plan; and
- (b) additional information requirements, in addition to those already set out in this Guide, that the prospective applicant will be required to submit as part of its formal application in Phase-2.

(v) Notice and Disclosure Requirements

Amongst other considerations, the BA provides that the Minister may only issue Letters Patent if the Minister is of the opinion that the applicant has complied with the [Disclosure on Continuance Regulations \(Federal Credit Unions\)](#) (the Regulations).²⁵ In this regard, the Regulations specify that, at least four weeks before its members vote on a special resolution authorizing an application for Letters Patent, the prospective applicant must send a notice (the Disclosure Notice) to every member.²⁶ The primary purpose of the Disclosure Notice is to inform members of the following:

- (a) the day on which provincial deposit insurance coverage for the prospective applicant's depositors would end;

²⁴ The contingency plan should include options that the prospective applicant would propose to pursue in the event it is unable to execute its business plan as well as the criteria that would be considered in implementing a particular option under the plan.

²⁵ Please see section 35.1 of the BA.

²⁶ Please see section 1 of the Regulations.

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- (b) a description of the [Canada Deposit Insurance Corporation](#) (CDIC) coverage that would apply during the transitional period to the deposits of the prospective applicant after its continuance as an FCU;²⁷ and
 - (c) a description of the CDIC coverage that would apply after the transitional period to the deposits of the prospective applicant after its continuance as an FCU and how it differs from the pre-continuance provincial deposit insurance coverage.

The Disclosure Notice must be approved by the Superintendent in consultation with CDIC. As such, a draft copy of the Disclosure Notice must be provided to OSFI for approval prior to the prospective applicant sending it to members.

As provided for in the Regulations, the approved Disclosure Notice must be made available on the prospective applicant's website and in the prospective applicant's branches. The prospective applicant must also publish the information contained in the approved Disclosure Notice in the *Canada Gazette*, and in a newspaper with general circulation in the province or territory in which the prospective applicant transacts business, once a week for the four weeks before its members vote on the special resolution.

Subsequent to a member vote authorizing the application for Letters Patent, OSFI will request that the prospective applicant provide an expected date for its submission of a formal application.

²⁷ Section 12.1 of the *Canada Deposit Insurance Corporation Act* provides that CDIC shall insure pre-existing deposits up to the amount that would have been guaranteed or insured under provincial law until the end of the term for pre-existing term deposits and for 180 days after continuance for pre-existing demand deposits.

Phase-2 (Letters Patent and Order)

(i) *Notice of Intention to Apply*

Prior to submitting the formal application, the prospective applicant must give notice of its intention to apply for Letters Patent (the Notice of Intent). The primary purpose of the Notice of Intent is to inform the public of the identity of the local cooperative credit society making the application and to allow for public comment. The BA states that the Notice of Intent must be published once a week for four consecutive weeks in the *Canada Gazette* and in a newspaper in general circulation at or near the place where the head office of the FCU is to be situated. The BA also specifies that the Notice of Intent must be in a form satisfactory to the Superintendent. As such, a draft copy of the Notice of Intent should be provided to OSFI for review prior to publication to avoid the possibility of having to republish the Notice of Intent.²⁸ In this regard, OSFI's expectation is that the Notice of Intent will set out:

- (a) the name of the applicant;
- (b) the geographical location/jurisdiction of the applicant;
- (c) the proposed name²⁹ of the applicant as an FCU; and
- (d) a brief description of the proposed activities of the applicant as an FCU.

The BA provides that a person may formally object to the proposed continuance by submitting the objection, in writing, to the Superintendent within 30-days of the last publication of the Notice of Intent. Where an objection is submitted, the Superintendent will assess its merits and determine whether a public inquiry into the objection is warranted. The Superintendent must also inform the Minister of the objection and the findings of any such inquiry.

(ii) *Submission of Formal Application*

Following the publication of the Notice of Intent, the applicant may submit its formal application to OSFI for the issuance of Letters Patent. The information that OSFI generally expects to be submitted in respect of an application for Letters Patent is set out below.

OSFI will review the application and will contact the applicant to discuss its completeness, status, and outstanding issues. This will typically be done through one or more written communications, discussions and/or meetings. Where necessary, OSFI may also request additional information to complete the assessment of the application, which may include additional corroborating information or analysis from third parties. OSFI's assessment will also be informed by its experience of the actual performance of existing federally regulated financial institutions in similar business lines.

²⁸ Review by OSFI of the draft Notice of Intent will ensure that the form and information contained in the Notice of Intent provides the necessary information to the public.

²⁹ The applicant should confirm that it has performed the requisite name use analysis. Please see section 2.9(b) of this Guide.

2.0 Phase-2 Information Requirements

OSFI expects applications to contain all the information requirements set out in sections 2.1 to 2.9 of this Guide. Additionally, if any of the details have changed in respect of the information requirements submitted under sections 1.1 to 1.3 above, the applicant should update and re-submit that information.

In certain circumstances, it may not be feasible for an applicant to provide all the information set out below at the time of the application. Where this is the case, applicants should explain to OSFI which information items will be provided at a later date.

2.1 Applicant and Financial Strength

The applicant is generally expected to provide, as applicable:

- (a) the address of the principal place of business and head office of the applicant;
- (b) a certified copy of the constating documents and current company by-laws of the applicant;
- (c) the name and contact information of an individual from the applicant's regulator that is familiar with the applicant's activities;
- (d) confirmation that the applicant's regulator is aware of the applicant's intention to continue as an FCU and confirmation that the applicant is authorized by the laws of the jurisdiction where it is incorporated to apply for Letters Patent;³⁰
- (e) a report of the examination in respect of the applicant issued by its regulator or, if the report cannot be provided, any views that the regulator may provide regarding the applicant;
- (f) a copy of the most recent report on the applicant issued by a recognized credit rating agency, if available; and
- (g) a certified copy of the special resolution authorizing the applicant to apply for Letters Patent.

³⁰ Confirmation of authorization to apply for Letters Patent may take the form of an approval by the applicant's regulator or a Minister in the jurisdiction where the applicant is incorporated, or any other form prescribed by the jurisdiction.

2.2 Business Plan

With respect to the five-year business plan submitted in Phase-1, the applicant is generally expected to provide:

- (a) sources of initial and future capital in the form of a capital plan and funding plan;
- (b) a *pro forma* [Internal Capital Adequacy Assessment Process \(ICAAP\)](#) reporting template and information supporting the:
 - (i) identification of all key risks,
 - (ii) effectiveness of proposed information systems that support ICAAP,
 - (iii) appropriateness of the measurement methodology employed to support the ICAAP assessment,
 - (iv) reasonableness of the ICAAP output and the assumptions used,
 - (v) reasonableness and appropriateness of stress testing and analysis of assumptions,
 - (vi) integration of the ICAAP results and the proposed risk management processes, and
 - (vii) reasonableness of the proposed capital plan and the proposed internal capital targets;³¹ and
- (c) the intended financial year-end for the applicant as an FCU.³²

2.3 Management

The applicant is generally expected to provide:

- (a) details regarding the projected staff complement and an organization chart showing reporting lines for senior positions and key responsibilities in the FCU over the lifespan of the business plan, including proposed mandates for each senior position and any senior management committees;³³
- (b) details regarding the hiring criteria, including knowledge and experience for each senior position;
- (c) information on each proposed senior officer of the FCU, including:

³¹ The capital must meet OSFI's [Capital Adequacy Requirements \(CAR\)](#) and [Leverage Requirements](#). OSFI generally expects that the initial amount of capital will be sufficient, at all times, for the FCU to remain above its internal target risk-based capital ratios and remain above its authorized leverage ratio for the first two years of the FCU's operations under the base case scenario. However, this expectation may extend out to three years in certain circumstances, including where an applicant proposes to add new line(s) of business other than deposit-taking.

³² The financial year-end of an FCU may be either October 31st or December 31st (please see section 307 of the BA).

³³ Please see OSFI's [Corporate Governance Guideline](#).

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- (i) a completed [OSFI Security Information Form](#),³⁴
 - (ii) the title of the position the individual would hold within the FCU,
 - (iii) details of whether the individual and/or any entity in which the individual is or was a senior officer, have been the subject of any criminal proceedings or administrative sanctions, and
 - (iv) the individual's current *curriculum vitae* demonstrating that the individual has the necessary qualifications and expertise to manage or direct the FCU's proposed business; and
- (d) the name and address of the proposed external audit firm, and the specific partner of that firm, that will be responsible for auditing the FCU, and confirmation that the proposed external auditor meets the suitability requirements set out in the BA.³⁵

2.4 Risk Management: Policies, Procedures and Risk Management Controls

The applicant is generally expected to provide:

- (a) its risk appetite framework as an FCU;³⁶
- (b) a detailed description of all risks to which it would be exposed as an FCU as well as the manner in which it would monitor and manage these risks, including the following specific risks:
 - (i) market risk,
 - (ii) credit risk,
 - (iii) operational risk,
 - (iv) regulatory compliance, and
 - (v) strategic risk;
- (c) copies of its proposed
 - (i) investment and lending policies, standards and procedures, and a self-assessment against OSFI's [Guideline B-1, Prudent Person Approach](#), [Guideline B-2, Large Exposure Limits](#), and [Guideline B-20, Residential Mortgage Underwriting Practices and Procedures](#),
 - (ii) funding and liquidity risk management policies, procedures and a description of the control procedures to monitor funding and liquidity,³⁷

³⁴ The OSFI Security Information Form(s) must be provided to OSFI in the following two formats: (a) a signed and dated original hard-copy, and (b) an electronic version in Excel format. Once OSFI receives the completed forms, they are then forwarded to the relevant Canadian law enforcement and intelligence agencies to carry out the requisite background and security assessments. Please note that the time required by law enforcement and intelligence agencies to complete these assessments is not within OSFI's control, and the Superintendent will generally not seek the Minister's approval in respect of the Letters Patent until these assessments are completed without issue. As such, applicants are strongly encouraged to remit the completed OSFI Security Information Form(s) at the earliest possible stage in the application.

³⁵ Please see section 315 of the BA.

³⁶ Please see OSFI's [Corporate Governance Guideline](#).

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- (iii) provisioning policies and a description of the collective allowances that are anticipated in executing its business plan as an FCU,
 - (iv) dividend and capital management policies,³⁸
 - (v) compensation policy for all human resources,³⁹
 - (vi) market risk management policies,
 - (vii) operational risk management policies,⁴⁰ and
 - (viii) business continuity management policy, business impact analysis and plans for business continuity and disaster recovery;⁴¹ and
- (d) the name of the proposed senior officer to be responsible for risk management oversight and a description of the resources and authority allocated to discharge this responsibility.

2.5 Board of Directors and Committees

The applicant is generally expected to provide:

- (a) the information listed in subsection 2.3(c) of this Guide in respect of each proposed director of the FCU;
- (b) a description of:
 - (i) the composition⁴² and mandate of the proposed board of directors (the Board) and its committees,⁴³
 - (ii) the Board's proposed policies and practices,
 - (iii) the proposed self-assessment programs of the Board, and
 - (iv) the Board's proposed responsibilities with respect to risk management and internal controls;⁴⁴
- (c) a copy of the proposed conflict of interest policy; and

³⁷ Please see OSFI [Guideline B-6 - Liquidity Principles](#).

³⁸ The capital management policy should detail the internal targeted levels of capital and describe on-going monitoring procedures to ensure that the FCU will meet OSFI's minimum capital requirements.

³⁹ The compensation policy is expected to be consistent with Financial Stability Board [Principles for Sound Compensation](#).

⁴⁰ Please see OSFI [Guideline E-21 – Operational Risk Management](#). OSFI generally expects operational risk management policies to include policies related to the following: outsourcing risk, business continuity and disaster recovery, privacy risk, information technology, information management and security, physical security, fraud risk and records retention. Please also see OSFI's [Supervisory Framework](#).

⁴¹ In particular, an FCU's business continuity plan should ensure that the FCU has in its possession or can readily access all records necessary to allow it to sustain business operations, meet its regulatory obligations, and provide all information as may be required by OSFI to meet its legislated mandate.

⁴² Relevant financial institution and risk management expertise are key competencies for the Board. There should be reasonable representation of these skills at the Board and Board committee levels.

⁴³ The BA requires that the directors of the FCU establish audit and conduct review committees (please see subsection 157(2) of the BA).

⁴⁴ Please see OSFI's [Corporate Governance Guideline](#).

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- (d) an analysis demonstrating that the applicant's proposed corporate governance policies and practices will comply with OSFI's [Corporate Governance Guideline](#).⁴⁵

2.6 Internal Audit

The applicant is generally expected to provide:

- (a) a description of the proposed mandate, organization structure, methodology and practices of its internal audit function, and a copy of the proposed Internal Audit Plan for the first year of operations as an FCU (including audits planned for outsourced activities); and
- (b) where applicable, a description of the involvement of any internal audit group(s) of other entities to assess its internal controls.

2.7 Regulatory Compliance Management

The applicant is generally expected to provide a detailed description of the internal controls, policies and procedures that it would follow as an FCU to ensure compliance with:

- (a) the BA and OSFI issued guidance, including the name of the proposed senior officer that would be responsible for the oversight of such compliance, and a description of the resources and authority to be allocated to that person to discharge this responsibility;
- (b) sections 83.08 to 83.12 of the *Criminal Code* and the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism* (UNSTR) and related directives issued by OSFI and the Government of Canada, including the name of the senior officer that is, or would be, responsible for the oversight of such compliance with the *Criminal Code* and UNSTR, and a description of the resources and authority allocated to that person to discharge this responsibility;
- (c) the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), and related guidelines issued by the [Financial Transactions and Reports Analysis Centre of Canada](#) and OSFI [Guideline B-8 - Deterring and Detecting Money Laundering](#), including the name of the Chief Anti-Money Laundering Officer that is, or would be, appointed under the PCMLTFA, a description of the resources and authority allocated to that person to discharge this responsibility, and an assessment of the money laundering and terrorist financing risks relevant to the proposed business plan; and

⁴⁵ The corporate governance practices adopted by an FCU will likely depend on the nature, scope, complexity, and risk profile of that institution.

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- (d) all other pertinent Canadian legislation.⁴⁶

2.8 Information Technology

The applicant is generally expected to provide:

- (a) a risk assessment of the IT operations including copies of its proposed cyber risk management policies and practices;⁴⁷
- (b) a description of any integration with third party systems;
- (c) the proposed end user computing policy; and
- (d) the proposed IT policy and governance structure, including roles and responsibilities, and details on resources and staffing.

2.9 Other Requirements

The applicant is also generally expected to provide:

- (a) its proposed by-laws, including capital by-laws (to the extent the proposed by-laws differ from the by-laws provided under 2.1(b) above);
- (b) its proposed name⁴⁸ as an FCU, in English, French, or both (as required), and a name search report⁴⁹ accompanied by an analysis in support of the applicant's conclusion that the proposed name:
- (i) is available for use in Canada, and
 - (ii) is not prohibited by the BA and meets the requirements of any other relevant Canadian legislation, including all pertinent financial institution statutes;⁵⁰
- (c) a confirmation that the applicant has complied with the [*Disclosure on Continuance Regulations \(Federal Credit Unions\)*](#), as well as:
- (i) a copy of the Disclosure Notice sent to members, and

⁴⁶ Please see OSFI [Guideline E-13 - Regulatory Compliance Management \(RCM\)](#).

⁴⁷ Please see OSFI [Cyber-Security Self-Assessment Guidance](#).

⁴⁸ The proposed name can be reserved under the BA. Please see [Index A No. 20 – Name Reservation](#) for information requirements and administrative guidance in relation to name reservation applications.

⁴⁹ OSFI will accept a NUANS corporate name search report, which includes a list of business names and trademarks that sound similar to the name being proposed. If the FCU would conduct business in the Province of Québec, a search of the Québec Corporations Database at “Registraire des entreprises” is also required.

⁵⁰ If the FCU will use both an English and French form of the proposed name, a name search report and corresponding analysis must be provided in respect of both forms of that proposed name. Reference should also be made to OSFI [Advisory 2002-01-R1 - Corporate Names, Registered Names and Trade Names](#).

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- (ii) a statutory declaration or affidavit by a representative of the newspaper and *Canada Gazette* pertaining to the dates that the information contained in the Disclosure Notice was published, along with a copy of the published information;
 - (d) a statutory declaration or affidavit by a representative of the newspaper and *Canada Gazette* pertaining to the dates that the applicant's Notice of Intent was published, along with a copy of the published Notice of Intent;⁵¹
 - (e) a confirmation that the applicant has the required amount of capital;⁵²
 - (f) a signed letter of commitment by the applicant⁵³ to the effect that it will provide OSFI with adequate advance notice of any proposed material changes to its business plan as an FCU;⁵⁴ and
 - (g) the non-refundable service charge in respect of the application, as required by the [*Service Charges \(Office of the Superintendent of Financial Institutions\) Regulations*](#).⁵⁵

On-site Reviews and Pre-commencement Letters

One or more on-site reviews will be arranged⁵⁶ prior to OSFI making a recommendation to the Minister in respect of the issuance of Letters Patent and the anticipated areas for review and discussion will be provided by OSFI at that time. The purpose of an on-site review is to determine whether the applicant is sufficiently prepared to commence business operations as an FCU. It will assess, among other things, the operational readiness and control processes and management systems referred to in sections 2.4, 2.7 and 2.8 of this Guide. An on-site review will also assess whether the applicant is capable of producing the required statutory and supervisory information in an accurate and timely manner at the commencement of operations as an FCU.

OSFI will provide the applicant with a pre-commencement letter prior to a scheduled on-site review. The letter will request additional information that the applicant is expected to provide sufficiently in advance of the on-site review so that OSFI can consider the submissions prior to the on-site review.

⁵¹ Please see section 25 of the BA.

⁵² Please see footnote 31.

⁵³ The letter of commitment that the applicant is expected to sign will be provided by OSFI.

⁵⁴ Material changes to the business plan may include new product offerings, changes in management structure or growth of the business beyond what was contemplated in the initial business plan submitted in support of the application for Letters Patent.

⁵⁵ A wire transfer, cheque or draft should be made payable to the "Receiver General for Canada".

⁵⁶ OSFI would normally schedule an on-site review of the applicant upon receipt of confirmation that the on-site review has been authorized by the jurisdiction of its incorporation or confirmation that no authorization is required by that jurisdiction.

Following an on-site review, OSFI will provide the applicant with a letter setting out any outstanding concerns and OSFI's expectations regarding their resolution.

Letters Patent and Order

Before making a recommendation to the Minister in respect of the issuance of Letters Patent, OSFI must be satisfied that the applicant has the necessary systems, management structure, control processes and regulatory compliance management systems in place. All policies and procedures should be finalised and approved prior to the making of the recommendation.

The applicant continues as an FCU on the date provided in the Letters Patent⁵⁷. The Minister may set out in the Letters Patent any terms and conditions that the Minister considers necessary or appropriate relative to the continuance as an FCU.

The Superintendent may set out in the Order conditions or limitations on the FCU's business to address supervisory and regulatory concerns.⁵⁸ At the same time, the FCU will also be assigned its authorized leverage ratio.

The FCU will be required to publish notice of the making of the Order in a newspaper in general circulation in the city where the FCU's head office is located. OSFI is required to publish a notice of the issuance of the Letters Patent and the making of the Order in the *Canada Gazette*.⁵⁹ OSFI is also required to send a copy of the Letters Patent to the appropriate official or public body in the jurisdiction in which the applicant was authorized to apply for Letters Patent.⁶⁰

⁵⁷ Please see section 38 of the BA for the effects of continuance on the FCU.

⁵⁸ Please note that subsection 53(2) of the BA provides that the Order is deemed to contain a condition that the FCU must, on an ongoing basis, be organized and carry on business on a cooperative basis in accordance with section 12.1 of the BA.

⁵⁹ Please see sections 37 and 56 of the BA.

⁶⁰ Please see section 37 of the BA.

Administrative Guidance

This portion of the Guide provides additional guidance to applicants in respect of continuance for the purpose of amalgamation, the matters for consideration relative to the issuance of Letters Patent and the making of the Order, transitional relief, and other stakeholders to be considered by the applicant in the context of continuance.

I. Continuance for the Purpose of Amalgamation

The BA provides for circumstances where a local cooperative credit society applies for continuance in order to continue and immediately amalgamate with one or more local cooperative credit societies also applying for continuance or with an existing FCU.⁶¹ In any of these circumstances, the formal application for Letters Patent must be made at the same time as the formal application for letters patent of amalgamation.⁶² The applications for continuance and amalgamation will be considered together.

In addition, an approved amalgamation agreement⁶³ is a key requirement in an application for amalgamation. The Superintendent must approve the amalgamation agreement prior to the Minister issuing letters patent of amalgamation. As it relates to the application process for continuance and amalgamation, an amalgamation agreement may be submitted to the Superintendent for approval during Phase I. Please note that the Superintendent must approve the amalgamation agreement prior to approval, by special resolution, by members and any shareholders,⁶⁴ and this vote must be held at the same time as the vote on the special resolution authorizing the application for continuance.⁶⁵

The formal application in respect of the amalgamation must also be preceded by a notice of intention to apply.⁶⁶ The prospective applicant(s) may publish this notice jointly with the Notice of Intent in respect of the application for continuance⁶⁷ at the beginning of Phase II of the application process.

Prospective applicants are encouraged to contact OSFI for further information regarding any additional information requirements in respect of a proposed amalgamation.

⁶¹ Please see subsections 33(3) and (4) of the BA.

⁶² Please see subsection 33(5) of the BA.

⁶³ Please see section 224 of the BA.

⁶⁴ Please see section 225 of the BA.

⁶⁵ Please see subsection 34(4) of the BA.

⁶⁶ Please see subsection 228(2) of the BA.

⁶⁷ Please see subsection 34(1.1) of the BA.

II. Letters Patent and Order

OSFI will review the whole application with a view to ascertaining whether the criteria related to the Ministerial approval for the issuance of the Letters Patent have been met.⁶⁸ As the Superintendent makes the Order upon the issuance of Letters Patent,⁶⁹ OSFI must also be satisfied that the applicant is sufficiently prepared to commence business operations as an FCU prior to recommending that the Minister issue Letters Patent.

OSFI's review will focus on determining whether the following broad considerations have been satisfied:

- (a) there are sufficient sources of continuing financial support for the applicant as an FCU;
- (b) the applicant's business record and experience is appropriate;
- (c) the applicant is of good character and integrity and has a good reputation;
- (d) the application does not raise any national security concerns;
- (e) the applicant's business plan as an FCU is sound and feasible;
- (f) the applicant has adequately assessed the risks to which it will be exposed as an FCU and has satisfied OSFI that it has implemented proper policies, processes and systems to monitor and mitigate those risks;
- (g) the applicant's initial capital as an FCU will be sufficient to support the business plan and provide adequate protection to depositors and creditors;
- (h) the managers and directors of the proposed FCU are in place and have the necessary experience and competence to fulfil their roles;
- (i) any regulatory compliance management or public policy issues raised by the application are addressed;
- (j) the proposed FCU will be organized and carry on business on a cooperative basis⁷⁰; and
- (k) the issuance of the Letters Patent will be in the best interests of the financial system, and cooperative financial system, in Canada.

⁶⁸ Please see section 27 of the BA.

⁶⁹ Please see subsection 48(3) of the BA.

⁷⁰ Please see section 12.1 of the BA.

III. Transitional Relief

Where certain activities of an FCU in respect of which Letters Patent were issued will not comply with the BA, the Minister may, on the recommendation of the Superintendent, by order grant a temporary permission in respect of these activities. The permission granted may be to:

- (a) engage in a business activity that the applicant was engaging in at the time the application for Letters Patent was made for up to 30 days after the issuance of Letters Patent, or if an undertaking to cease engaging in the activity has been given under the BA, the cessation date set out in the undertaking in respect of the activity;
- (b) continue to have issued and outstanding debt obligations for up to 10 years after the issuance of Letters Patent if the debt obligations were outstanding at the time the application for Letters Patent was made;
- (c) hold assets that were held at the time the application for Letters Patent was made for up to 2 years after the issuance of Letters Patent;
- (d) acquire and hold assets for up to 2 years after the issuance of Letters Patent if the applicant was obliged, at the time the application was made, to acquire those assets; and
- (e) maintain outside Canada for up to 2 years after the issuance of Letters Patent any records or registers required by the BA to be maintained inside Canada.⁷¹

The Minister may also, by order, exempt the FCU from certain requirements relating to voting for up to 3 years after the effective date of the Letters Patent, if the Minister is of the opinion that the FCU will act in a manner that substantially complies with the requirement.⁷²

The applicant should request such temporary permission or exemption in its application to continue as an FCU. The applicant is expected to provide a rationale for the requested order including details regarding the activity for which relief is requested and a plan to come into compliance.

For the purpose of supporting an FCU during the 3 year period from the effective date of the Letters Patent, the Minister may, subject to any terms and conditions that the Minister considers appropriate and for the period that the Minister considers appropriate, guarantee the repayment of a loan that a federal financial institution makes to the FCU.⁷³ Where such a guarantee is requested, OSFI will provide the applicant with contact details for the Department of Finance.

⁷¹ Please see section 39 of the BA.

⁷² Please see section 39.01 of the BA.

⁷³ Please see section 39.02 of the BA.

IV. Other Stakeholders

Applicants are not required to make a separate application to CDIC for retail deposit insurance. OSFI will contact CDIC regarding any application for Letters Patent that includes a retail deposit-taking activity. Pursuant to the *Canada Deposit Insurance Corporation Act*, upon the making of an Order, CDIC will insure the eligible deposits held by an FCU.

Applicants should note that the consumer provisions in the BA are administered by the [Financial Consumer Agency of Canada](#) (FCAC). OSFI will inform FCAC of any application for Letters Patent.

FCUs are automatically members of [Payments Canada](#). Once continued, FCUs must register with Payments Canada.

OSFI will, on request, provide an applicant with an appropriate contact at CDIC, FCAC or Payments Canada.

Contact Details for Additional Information

All enquiries regarding continuance as an FCU should be directed to:

Office of the Superintendent of Financial Institutions
Approvals and Precedents (Deposit-taking Institutions Approvals)
Legislation and Approvals Division
15th Floor, 255 Albert Street
Ottawa, Ontario, Canada, K1A 0H2

Telephone: (613) 990-6282

Facsimile: (613) 991-0325

Website: <http://www.osfi-bsif.gc.ca/>

Email: approvalsandprecedents@osfi-bsif.gc.ca