



**DEPOSITORY DIVISION  
ADVISORY LETTER 2023-01  
SEPTEMBER 25, 2023**

**TO: Indiana State-Chartered Credit Unions**

**From: Christopher C. Dietz, Deputy Director, Depository Institutions**

**RE: Advisory on the Shareholder (Member) Vote for Credit Union Mergers**

The Indiana Department of Financial Institutions (“Department”) has received questions from state-chartered credit unions regarding how to properly follow the requirements of Indiana Code section 28-7-1-33, which outlines the process for two credit unions proposing a business merger. The agency has received commentary from several industry stakeholders that the language in subparts (d) and (e) of the statute may be considered unclear regarding the specific shareholder groups required to vote on the proposed merger. The agency provides this advisory regarding the required shareholder voting process.

The plain, ordinary, and usual sense of subparts (d) and (e) of IC 28-7-1-33 work in conjunction to outline the shareholder vote process. Subpart (d) of the section discusses the Department’s ability to permit a merger to become effective without the affirmative vote of the terminating credit union’s membership if the credit union is in danger of insolvency or other specialized circumstances. Subpart (e) discusses the execution of the articles of merger and the approval process of the joint merger agreement by the shareholders of both credit unions. It should be noted that the Department must approve the merger transaction before a shareholder vote is held by either the surviving or terminating credit union. Additionally, the articles of merger shall be submitted to the Department before the consummation date of the merger.

The relevant language outlined in Subpart (e) indicates that articles of merger shall be executed “after approval of the joint agreement by the shareholders of the merging credit unions...” Because the relevant language uses the plural “unions,” the agency’s position is to require both credit union’s shareholder groups to vote on the merger agreement at a shareholder meeting directed by resolution of the credit union board of directors. A majority of the shareholders present at that meeting may approve the joint merger agreement.