

Procedures to Obtain FCA Approval of a Plan to Merge Banks

In accordance with the requirements of § 611.1020, where two or more banks plan to merge the banks shall jointly submit to the FCA the documents itemized in §§ 611.1122(a)1 through (4), (6), (7), 611.1122(e), and 611.1123. In interpreting those sections, the word “bank” shall be read for the word “association.”

If a proposed merger will involve three or more banks, the Farm Credit Administration (FCA or Agency) may require supplemental information or may waive any information required by 12 CFR 611.1020. Any waiver on this or any other regulation must be obtained prior to filing the merger application.

Preliminary Approval

1. The constituent (merging) banks should send six complete copies of the proposal (one original and five copies) including all disclosure and nondisclosure items, together with a cover letter signed by the constituent banks or the constituent banks’ merger coordinator requesting FCA approval to:

The Farm Credit Administration
Secretary to the Board
1501 Farm Credit Drive
McLean, VA 22102-5090

2. Upon receipt of the proposal by the FCA, an acknowledgment letter will be sent to the constituent banks submitting the request. After all required materials have been received, the FCA will also send a letter to the chief executive officer(s) setting the start and end dates of the 60-day statutory review period. No assumption is to be made regarding the FCA's approval of the proposal until the expiration of 60 calendar days from the date of receipt by the FCA of a complete package of materials as defined herein. A complete package comprises all items identified in the Documentation Checklist, unless the item requested is not applicable to the proposal, and any other documentation or information required by the FCA to be included in the application. All items that are identified as not applicable to the proposal must be explained under Explanatory Notes in Section B at the end of the Information Checklist.
3. Notification of the FCA's action will be sent to the chairman of the board of directors of each constituent bank. Each board chairman can expect to receive written approval or disapproval of the merger plan by the date specified in the letter establishing the 60-day statutory review period. On notification that the FCA has preliminarily approved the merger, the constituent banks may submit the plan and the disclosure to their stockholders for a vote.
4. Any disapproval of a proposal by the FCA Board will be sent in writing to the chairman of the board of directors of each constituent bank. The disapproval will state the reasons the proposal was rejected by the FCA. Any proposal rejected by the FCA can be resubmitted for FCA approval provided the reasons for disapproval have been remedied.

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Final Approval

Following approval by the constituent banks' stockholders, one set of the following documents must be submitted to the FCA to obtain final approval and the necessary charter amendments or a new charter:

1. An Agreement and Plan of Merger with the inked signatures of those persons authorized to sign such agreement.
2. A certified copy of the stockholders' resolution on the Agreement and Plan of Merger and a certified statement from the secretary of each constituent bank that a quorum was present at a duly authorized stockholders' meeting.
3. A certified statement from an independent third party named to tabulate the voting results for each constituent bank that the merger was approved. The certification must specify the quorum requirement for each constituent bank, a tally of the results of the vote, and the number of votes eligible to be cast as of the record date. In the case of voided ballots, the certified statement must describe each reason ballots were voided and the number voided per each circumstance.
4. The original charters of the constituent bank or banks being merged and whose separate corporate existence will cease upon consummation of the merger.
5. Three copies of the printed stockholder disclosure package as mailed by each constituent bank to its stockholders (including the notice to stockholders, proxy instructions, proxy authorization, proxy ballot, and ballot for casting a vote at the stockholders' meeting).
6. A copy of the dated notification of the voting results as mailed by each constituent bank to its stockholders.
7. A cover letter from the constituent banks' CEOs requesting final approval with a final recommendation on the effective date of the merger. The effective date of a merger may not be less than 35 days after the date of mailing of the notification to stockholders of the results of the stockholder vote or 15 days after the date of submission to the FCA of all required documents for the Agency's consideration of final approval, whichever occurs later. During the 35-day period following the mailing of the notice to stockholders, a petition for reconsideration can be filed by voting stockholders as specified in section 7.9 of the Farm Credit Act of 1971, as amended (Act).

If no valid petition for reconsideration is received by the FCA within the 35 days following mailing of the notification to stockholders of the results of the vote, the effective date will be that recommended by the constituent banks or as determined by the FCA.

If a valid petition for reconsideration is filed with the FCA within 35 days after mailing of the notification to stockholders of the results of the stockholder vote, the constituent banks must agree on a second effective date to be used in the event the merger is approved on reconsideration. The second effective date may not be less than 60 days after stockholder notification of the results of the first vote, or 15 days after the date of the reconsideration vote, whichever occurs later.

8. Any other documents that may be required by the FCA in its preliminary approval letter, such as evidence of satisfaction of any other conditions or requirements for final approval as stated in the preliminary approval letter.

The FCA's final approval letter will be mailed once the FCA determines the final effective date. All charters or charter amendments will follow after being executed by the FCA Board Chairman.