

**CHAPTER 13-03-06**  
**CREDIT UNION RESERVE FUNDS AND PROMPT CORRECTIVE ACTION**

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**13-03-06-01. Definitions.**

1. "Net worth" means the retained earnings balance of the credit union at quarter end as determined under generally accepted accounting principles. Retained earnings consist of undivided earnings, regular reserves, and any other appropriations designated by management or regulatory authorities. For low income-designated credit unions, net worth also includes secondary capital accounts that are uninsured and subordinate to all other claims, including claims of creditors, shareholders, and the national credit union share insurance fund. For any credit union, net worth does not include the allowance for loan and lease loss account.
2. "Net worth ratio" means the ratio of net worth of the credit union to the total assets of the credit union.
3. "Net worth restoration plan" means a plan submitted by the credit union and approved by the commissioner outlining the actions the credit union will take and timeframes for improving the credit union's capital position and becoming well-capitalized. The plan must comply with part 702 of the national credit union administration's rules and regulations.
4. "Quarterly reserve requirement" means a transfer from current quarter earnings into the regular reserve account equal to one-tenth of one percent of assets.
5. "Risk-based net worth requirement" means the level of net worth necessary given the risk level of the credit union as defined in part 702 of the national credit union administration's rules and regulations.
6. "Total assets" means quarter end asset balance, average daily balance over the calendar quarter, average month-end balances over the three calendar months in the calendar quarter, or the average of quarter end balances of the current and preceding calendar quarters.

**History:** Amended effective January 1, 1981; August 1, 1984; June 1, 2002; January 1, 2007; January 1, 2013.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-08.4, 6-06-21

**13-03-06-02. Maintaining an allowance for loan and lease loss account.**

1. All credit unions operating under a charter issued by the state of North Dakota shall be required to maintain an allowance for loan and lease loss account in accordance with generally accepted accounting principles and rules of the national credit union administration. When the amounts calculated under section 13-03-06-03 exceed those required pursuant to North Dakota Century Code section 6-06-21, the allowance for loan and lease loss account will be considered inadequate, and the excess will be transferred to the allowance for loan and lease loss account through the provision for loan and lease loss expense account within thirty days as directed by the commissioner.
2. Upon application by a credit union to the state credit union board, and upon the showing of extraordinary hardship, the state credit union board may alter the allowance for loan and lease

loss requirements as set forth in this chapter when in its opinion, such an alteration is necessary or desirable.

**History:** Amended effective June 1, 1979; January 1, 1981; January 1, 2007; January 1, 2013.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-08.4, 6-06-21

### **13-03-06-03. Calculation.**

The adequacy of the allowance for loan and lease loss account as required under North Dakota Century Code section 6-06-21 will be based upon an individual loan classification at each examination of the credit union performed by the commissioner under authority granted the commissioner under North Dakota Century Code section 6-06-08. The commissioner may require a credit union to put aside additional reserves on loans according to the following classification formula:

1. Substandard loans - up to ten percent of the loan balance.
2. Doubtful loans - the net exposure to loss after collateral values are considered.
3. Loss loans - the net exposure to loss after collateral values are considered.

**History:** Effective January 1, 1981; amended effective June 1, 2002; January 1, 2007; January 1, 2013.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-08.4, 6-06-21

### **13-03-06-04. Prompt corrective action.**

When the credit union's net worth ratio falls below seven percent after allowing for full and fair disclosure in the allowance for loan and lease loss account, the credit union is required to meet the prompt corrective action requirements under North Dakota Century Code section 6-06-08.4 and part 702 of the national credit union administration's rules and regulations. Any required reserves to be made under prompt corrective action will be made to the regular reserve account.

**History:** Effective January 1, 1981; amended effective May 1, 1981; January 1, 2007; January 1, 2013.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-08.4, 6-06-21