



July 31, 2017

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA. 22314
(Sent via email)

Dear Mr. Poliquin,

Thank you for the opportunity to comment on NCUA's proposed rule changes for Voluntary Mergers of Federally Insured Credit Unions.

OnPoint Community Credit Union is a state-chartered Credit Union headquartered in Portland, Oregon and serves over 325 thousand members. We understand and agree with the need for reasonable notification periods and effective transparency with credit union members when seeking their approval to voluntarily merge credit unions. We respectfully submit the following comments to assist NCUA in modifying the proposed rule in a way that reduces potential inaccuracies and regulatory burdens while maintaining the essential requirements of the rule that inform and protect credit union members.

Applicability to FISCUs

Credit unions benefit from having an effective dual charter system that provides different requirements in certain business areas. As a FISCU, OnPoint works with our prudential state regulators on a wide variety of issues, including corporate governance issues. It is the state regulator's responsibility to define the requirements for FISCUs regarding Mergers and Acquisitions. Therefore we respectfully suggest that this proposed rule not apply to FISCUs.

Disclosure of Merger-Related Financial Arrangements

Covered Person:

This area of the rule proposes taking a more prescriptive definition of persons subject to disclosure than the existing rule, which seems to be a change in direction from other recent NCUA rules such as the MBL rule. The structured requirement to disclose financial arrangements for the President/CEO plus four most highly-paid employees, and board and supervisory committee members, may not capture the arrangements for intended merging credit union employees. At times, a commission-based employee can earn amounts higher than senior

P.O. Box 3750
Portland, OR 97208-3750
503.228.7077
800.527.3932
www.onpointcu.com

managers or CEOs. Due to this possibility, we suggest that the language be clarified to pertain to management-level staff who are in a position of influence, rather than basing the disclosures solely on the level of compensation.

We do not feel that all employees should be considered covered persons that require disclosure, as this may result in a granular disclosure that would not be material to its target audience. Suppose that all employees were given a \$100 bonus for their work leading up to the merger. A requirement to disclose financial arrangement amounts for all employees would lead to a disclosure containing the names and amounts associated with every employee of the merging organization, which seems insignificant to informing the members' vote on the matter.

Merger-Related Financial Arrangement:

Similar to the "covered person" definition, the proposed definition of merger-related financial arrangement is more prescriptive than the prior definition. This proposed measurement, which includes all increases in compensation that a covered person received during the 24 months leading up to the approval of the merger plan, seems likely to overstate the financial arrangements, due to regular/ unrelated increases in compensation being captured in the disclosed amount. To minimize this overstatement effect, we suggest that the historical lookback timeframe be limited to 12 months.

In addition, the concept of including all future compensation that would not be received but for the merger taking place may be impractical to measure prior to the merger taking place. While the proposed rule allows for less precise approaches to disclosing future compensation increases, the requirement to disclose all future increases in compensation may mis-state actual amounts arranged. Therefore, we suggest a more limited/defined approach to future compensation that should be disclosed, and for a specified future time frame.

To the specific question of whether healthcare, retirement, and other benefits offered on a nondiscriminatory basis to all employees should be included in the disclosure, our opinion is that these need not be included as they may be difficult to quantify and they apply to the full organization, so do not represent individualized treatment of covered persons.

Finally, the language for the board of directors' proposed certification that there are no merger-related financial arrangements other than those disclosed to the members of the merging FUC should be adjusted to reflect the group of covered persons to whom it applies (covered persons), rather than broadly stating that all financial arrangements have been disclosed.

Member-to-Member Communication

The proposed rule requires that member-to-member communication be provided for members of the merging credit union. While the spirit of this provision is well taken as an element of transparency, in practice we are concerned that it would be cumbersome and potentially problematic, as it provides a platform for negative commentary from parties with varied interests to participate in a public discussion of the planned merger that may not be factual.

Providing a communication channel for members to voice their opinions to other members is likely to lead to the credit union passing along, and potentially appearing to support, statements about the credit union, merger, or other issues that may be untrue or misleading. While provision has been made to include a disclosure that the information/comment does not represent the credit union or management's views, that disclosure could easily be overlooked by recipients of the communication, leading to confusion about who is making the comment. Typically, individuals who view a situation negatively, and often who represent an extremist or activist view, speak up when provided a platform, and are likely to voice sensational concerns of a vocal minority. Such communications can cause undue concern to the less vocal majority and result in significant resistance to a merger, with no requirement for sound underpinnings.

Opening up a mechanism for a public member-to-member conversation also provides a potential forum for individuals who are not credit union members to join for the sake of making harmful public comments, or to find an unengaged credit union member to help them carry out such a campaign. Despite such actions being single-focused and potentially malicious, these comments would be required to be shared and could taint the outcome of the merger process, wasting resources and keeping the merging credit union members from benefitting from the improved offerings and other benefits of the planned merger. This is an unfair outcome that could result from process obstructers who may take advantage of an open platform.

A process is proposed in this rule to allow for messages containing untrue content to be sent to NCUA for review to determine whether they will be forwarded to members. This process may be problematic due to it potentially not eliminating messages that are highly sensational but may not be deemed untrue by NCUA (this may be a very gray area), and also due to the potential timing issues that may be created due to the NCUA review process, which could necessitate postponement of the membership vote. While allowance for an NCUA review process is appreciated, it would require resources from NCUA and a prompt response commitment time to work with the timeline for disclosures/comments/member vote.

We suggest that member communications be directed to the merging credit union for their response rather than to other members in a public forum that may be fueled by sensational thoughts and opinions rather than fact.

Thank you again for the opportunity to comment on this proposed rule update. The goals of this rule make good sense for the credit union industry, however should be written and implemented in a way that does not derail mergers that will benefit the merging credit union's members. We hope that through our comments and those of other interested parties, the finalized rule will provide transparent member communication while managing vocal minority activism efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Veronica M. Ervin", with a long horizontal flourish extending to the right.

Veronica M. Ervin

SVP/Chief Compliance Officer