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Public Comments on Bylaws; Bank Conversions and Mergers; and Voluntary Mergers of Federally Insured Credit Unions:=====

Title: Bylaws; Bank Conversions and Mergers; and Voluntary Mergers of Federally Insured Credit Unions

FR Document Number: 2017-11331

RIN: 3133-AE73

Publish Date: 6/8/2017 12:00:00 AM

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Organization Name: null

Comment: Decatur Earthmover Credit Union is a state chartered, federally insured credit union located in Central Illinois. We have submitted comments on proposed legislation and regulation changes as we have felt compelled to if we believed the changes would have an effect on our operations or membership. The proposed changes regarding voluntary mergers of federally insured credit unions is one such instance where we feel it necessary to comment.

After reading the proposed rules, I commend the NCUA for their efforts to insure mergers between credit unions are done in a manner where members are appropriately informed of the benefits, potential changes in services or branch locations and the financial impact to the credit union and its employees. We agree with the desired results of the proposed rules, but respectfully disagree with some of the methods to attain said results.

Our objection to some of the proposed rules centers on the scope of the changes and the cumbersome or unworkable nature of others. Below you will find our concerns about specific proposals, but first and foremost of our concerns is the applicability to state chartered, federally insured credit unions.

Applying said rule changes to credit unions such as ours oversteps the bounds of the dual chartering system. State chartered credits unions have chosen to be overseen and regulated by our individual states. The NCUA already reviews and ultimately approves merger requests by federally insured credit unions to ensure safety and soundness of the continuing credit union. Our board of directors have been duly elected by our membership to represent our members, guide the credit union forward, and look out for the best interests of all members. By adding further oversight and requirements on state chartered credit unions, the NCUA appears to be taking the position that the state regulators and our elected board of director are incapable of (or unwilling) to prevent undue financial gain by employees of the credit union or to make decisions in the best interest of our members. Adding this additional layer of oversight puts state credit unions under additional scrutiny compared to federally chartered credit unions and is entirely unacceptable.

While we are adamant the proposed rules should not apply to state chartered credit unions, we do see the benefit to the merger process and if the rules are to be enacted, changes to their implementation are necessary.

In regards to the disclosure of merger related financial arrangements and potential benefits received by employees of the merging credit union, the NCUA should continue the practice of applying the "but for" test. No employee should gain undue benefit from a merger and expanding the list of employees reviewed is a good change. However, applying the "but for" rule is key and reviewing the previous 24 months of financial changes on affected employees is overreaching and unnecessary. Reviewing any potential material changes post merger are appropriate and should be disclosed to regulators and membership. We believe there should be some measurement or allowance for financial arrangements which are appropriate or in line with what

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other officers, executives or employees of the continuing credit union are already receiving, as it would not be uncommon for a smaller credit union with less resources to merge into a larger credit union with more resources or better benefits.

The proposed timelines for notification of members appear reasonable, but the addition of the member to member communication are unworkable. The member to member communication aspect of the rules are unwieldy and should be removed from the proposal. This proposed change could effect the timing of votes on mergers and will complicate or even derail mergers. The notification of intent to merge give members the chance to contact their elected board representatives in order to express any concerns and is sufficient to hear and address said issues.

Lastly the proposal to change approval of a merger from a majority of voting members to a majority of the total membership is unacceptable. After properly notifying our entire membership, the credit union has no ability to control the number of votes we will ultimately receive. This creates an unworkable and unnecessary level of participation which would prevent the majority of mergers. If our national elections were held to the same standards, no government office would ever be filled. Credit unions merger votes should not be held to a higher standard than the election of any government office.

In conclusion, we commend the NCUA for addressing the potential for undue influence or gain by officers or employees of a merging credit union. We feel the rules as proposed are overreaching in their attempt to achieve said result and respectfully ask our concerns to be considered in the rule making process.

Sincerely,

Barry A. Schmidt
President
Decatur Earthmover Credit Union

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