

August 7, 2017

Gerard Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428.

Re: Voluntary Mergers of Federally Insured Credit Unions

Dear Mr. Poliquin:

The National Credit Union Administration (NCUA) Board proposes to revise the procedures a federal credit union (FCU) must follow to merge voluntarily with another credit union.

The proposed rule would:

- require the merging FCU to disclose to its members all merger-related financial arrangements in whatever form they may take that are paid to its CEO, the next four highest paid employees after the CEO, the board of directors, and the supervisory committee;
- increase the minimum time period before the member vote that the merging FCU must give to its members. The proposed timeframe is no less than 45 days and no greater than 90 days; and
- add procedures to enable members to communicate with each other on a large scale regarding the merger.

Position

Merger-related Financial Arrangements

I am supportive of the NCUA Board's position to have merger-related financial arrangements disclosed to its members.

The proposal would improve transparency and accountability. The disclosure of all merger-related financial arrangements is good public policy.

However, the NCUA Board should go further with regard to the disclosure of executive and board financial arrangements.

While not part of this proposal, the NCUA Board should require FCUs to file Form 990 information return or its equivalent just like state-chartered credit unions and most other tax-exempt institutions. Expanding the public's opportunities to review executive salaries would promote improved corporate governance and greater credit union accountability. It would inform Congress, taxpayers, and credit union members about whether this valuable tax subsidy is going towards the credit union mission or is subsidizing credit union management.

Therefore, the NCUA Board should promptly issue a proposed rule requiring an FCU to publish the CEO salary and the pay of other highly compensated individuals.

Timing Requirements of Member Notices

The NCUA Board is proposing to increase the minimum time period that the merging FCU must give to its members. The proposed timeframe is no less than 45 days and no greater than 90 days.

I agree with the NCUA Board that “a notice period of at least 45 days is sufficient to provide for members to respond to a proposed merger, make inquiries, and plan to attend the merger meeting, but not so much time as to be inefficient or that members will forget about the merger meeting and opportunity to vote.”

Therefore, I don't have any objections to this section of the proposed rule.

Member-to-Member Communications

The proposed rule establishes procedures to allow for member-to-member communications in advance of a member vote on a proposed merger. As part of the member notice, FCUs would be required to inform members that if they wish to provide their opinions about the proposed merger to other members, they can submit their opinions in writing to the merging FCU within 30 calendar days of receipt of the notice, and the FCU will forward those opinions to other members. The proposed rule requires members to receive these member-to-member communications at least 15 days before the vote.

In justifying the member-to-member communications, the NCUA Board noted in a recent merger a significant disparity between the high number of members voting to approve the proposed merger by mailed ballot compared to the low number of members voting to approve the merger in person at a member meeting. The NCUA Board believes that members voting by mailed ballot do not benefit from the rigorous debate that may take place during a member meeting where members are free to discuss the proposed merger openly with management or the directors of the FCU.

However, the NCUA Board should not make a decision regarding member-to-member communications based upon an isolated example.

Therefore, I would recommend the NCUA Board to perform a study looking at a large number of mergers to determine if there is a discrepancy in voting between members who voted by mailed ballots and members who voted in person at a meeting.

Moreover, the member-to-member communications could impose additional burdens on a merging FCU. As the NCUA Board noted in its proposed rule, if a merging FCU provides the merger notice at the minimum notice period of 45 days, and a member uses the maximum of the 30 days permitted to submit a member-to-member communication, there would be no time for the merging FCU to send the member-to-member communication and still comply with the requirement that members receive the member-to-member communication at least 15 days before the vote. This would cause the merging FCU to postpone the vote.

I also anticipate that members, who oppose the merger, may strategically take the full 30 days to submit their comments. By running out the clock, this would allow members to receive

communications opposed to the merger; but would deny members, who are supportive of the merger, an opportunity to respond. Instead of encouraging lively debate, it would suppress debate.

Therefore, the NCUA Board should not move forward with its flawed member-to-member communications proposal.

Conclusion

I believe the NCUA Board should require the disclosure of all merger-related financial arrangements. But the NCUA Board should require all FCUs to annually disclose financial arrangements of senior management.

However, the NCUA Board should at this time not adopt its proposal on member-to-member communications. The NCUA Board should instruct the agency's staff to conduct a study analyzing mergers to determine if there is a discrepancy in voting between members who voted by mailed ballots and members who voted in person at a meeting.

Sincerely,

Keith Leggett