



Filed via regcomments@ncua.gov

July 26, 2017

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Notice of Proposed Rulemaking on Voluntary Mergers of Federally Insured Credit Unions; RIN 3133-AE73

Dear Mr. Poliquin:

On behalf of Vibrant Credit Union and all of our members, I would like to thank you for the opportunity to comment on this Notice of Proposed Rulemaking on Voluntary Mergers of Federally Insured Credit Unions ("NPRM"). Vibrant is headquartered in the Quad Cities area along the Illinois/Iowa border and we serve over 35,000 members in Illinois, Iowa, Wisconsin and Indiana. In the last few years we have changed our name, changed our culture and we're hoping to change the financial services industry with outstanding service to our members and a healthy dose of fun. As a credit union that has recently been involved in voluntary mergers, we can speak from direct experience about the current environment and the impact the NPRM would have if implemented as it is written.

The bottom line is that this regulation would dramatically reduce, if not entirely eliminate, voluntary mergers. Requiring a majority of all members to approve a merger alone would make it impossible for all but the smallest of credit unions to merge. Not only would this be a complete abrogation of state law for every FISCU in the country, but it would assure the NCUA a heavy workload dealing with emergency mergers and failed credit unions. The process of voluntary mergers allows credit unions that are no longer capable, or willing, to continue on their own to find the best possible fit for their members, their staff, and their community. Handcuffing management and boards of directors with difficult or impossible hurdles would leave them with few good options.

The simple fact is that in modern times, for reasons largely outside their control, it is difficult for smaller financial institutions to survive which leaves the option to cease operations or merge. The regulatory burden is already too much for small institutions to bear and it is ever increasing. (The answer to a lot of mergers is not more regulation.) There are other factors such as the cost of modern technology, which is difficult for small institutions to cover, and the decreasing importance of physical proximity. Many credit unions find themselves at the point of merger when a long time CEO reaches retirement. For some, it is a lack of succession planning, but for most it is difficult, at best, to find someone capable of running a financial institution in what is now a highly complex environment at a salary a small credit union can afford to pay.

However, we are also not naïve and understand that some credit unions have been overly aggressive in seeking merging partners and there are many rumors of inappropriate or excessive compensation given to management or directors. Given this environment what can or should NCUA do? We have personally been asked to share, and have shared, employment and compensation information for employees of merging credit unions that would be merging with us by more than one state regulator. State regulators have made it clear that compensation related to the merger is something they will be considering, and we think this is absolutely appropriate. While employees of a merging credit union deserve some clarity and protection with regard to their employment, we do not engage in the practice of "paying out" executives or board members and we

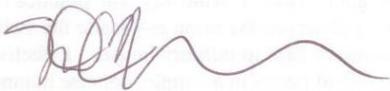
encourage regulators curbing any abuses in this area. State regulators, in the case of FISCUs, and NCUA already have broad, practically plenary, authority to approve or deny mergers and we would encourage the use of this existing authority to reduce or eliminate bad behavior. However, another long, complicated regulation is not the answer. Please find our responses to many of the specific points below.

- The proposed rulemaking should not be applicable to FISCUs. If the NCUA were to narrowly tailor a specific set of rules enhancing transparency, or increasing access for members to vote, we would encourage such things to apply to all credit unions. However, the rule as written is effectively a pre-emption of state law and brings into question the entire dual charter scheme. FISCUs are already subject to many, many federal regulations, and all mergers of FISCUs must be approved by NCUA under the existing regulations. Why have a state regulator if they cannot even perform the fundamental function of determining who can have a state charter?
- We encourage openness and transparency with both regulators and members. We approve of the expanded definition of senior management officials and directors to include the CEO and top four most highly compensated, but not the top ten or more employees. It is highly unlikely that someone beyond this core would substantially impact a merger decision. Also, the existing definition of "merger-related financial arrangement" should not be expanded. All compensation should be considered, but there should still be the materiality threshold. If there is going to be a look back period, it should be shorter than 24 months.
- We do not oppose an increase in the amount of time for notice to give members a full opportunity to learn about the proposed merger and have an opportunity to vote, however a shorter time frame must be available for emergency situations. Sometimes a credit union is distressed and what is best for the members is a relatively quick merger. Perhaps a change to note that more notice should be given, but a credit union may elect a special meeting and short notice, which NCUA or a state regulator could deny if there are not sufficient circumstances to warrant an abbreviated notice period.
- The proposed member to member communication is incredibly burdensome at best, and impossible at worst. The process of managing all these communications, as well as filtering what is appropriate or inappropriate, all amongst the backdrop of potential conflicts of interest in management trying to decide what to communicate is unworkable. Communication among anyone is now easier than at any time in history. If the NCUA wanted to create a posting of the merger notice and allow for comments, which link could be noted in the notice of merger, that would allow for the "rigorous debate" without any involvement by either credit union.
- Requiring the majority of members of a credit union to approve a merger instead of a majority present (unless proxies count as present) would eliminate voluntary mergers. The simple fact is that while we are a cooperative that returns better value to our members rather than profits to shareholders, the vast majority of members vote with their feet (or dollars). Many credit unions have tens of thousands of members which would require several thousand votes. Barely half of the US population even votes for President of the United States, how can you reasonably expect more than half of credit union members to personally participate, let alone fully understand all of the factors and approve?

In conclusion, every credit union already has a governance system that is akin to every company in America. There is an elected board of directors that are responsible for the overall management and condition of the credit union. Members who wish to be involved would likely be welcomed with open arms as many credit unions cannot even fill empty board seats. While we strongly believe in transparency, openness and member

involvement, and are open to improvements in those areas, the reality is that most members have no interest in anything other than the value of the financial products we can deliver. We are a growing credit union with happy members because we deliver them great value, great prices and great service. We believe that we need to continue to grow in order to continue to deliver those things. New members are welcome to join us as individuals or as a group that already has a charter and we will strive to be the best financial institution we possibly can to serve them. Thank you for your consideration of our views.

Best regards,



Steven C. Haubner, Esq.
Vice President of Strategy and Analysis

