From: Suzanne Yashewski
To: _Regulatory Comments
Cc: Caroline Willard; Jim Phelps
Subject: Cornerstone Comments on Voluntary Mergers of Federally Insured Credit Unions
Date: Monday, August 07, 2017 6:15:14 PM

August 7, 2017

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

Re: Cornerstone Comments on Voluntary Mergers of Federally Insured Credit Unions

Sent via email to: regcomments@ncua.gov

Dear Mr. Poliquin:

This letter represents the views of the Cornerstone Credit Union League ["Cornerstone"] in response to the National Credit Union Administration's ["NCUA"] proposed revisions to the merger rule. Cornerstone is the official trade association serving 520 federal and state credit unions in Arkansas, Oklahoma, and Texas combined, and more than 8.1 million credit union members. Cornerstone appreciates the opportunity to comment on this very important issue.

Cornerstone supports a regulatory environment that permits voluntary mergers when a credit union's board and members determine that doing so is in their best interest. In response to the current proposal, our member credit unions expressed that the proposal increases regulatory burdens without a justified reason. The rules need to remain flexible, as every merger situation is unique. Any future changes should ease regulatory burdens rather than imposing additional hurdles and complications to the process.

Definition of "Covered Person"
We oppose the proposed definition of "covered person" as drafted. Instead, we recommend retaining the current definition which includes senior management and the board.

The proposed definition of "covered person" would require disclosure of income for the four highest paid employees other than the CEO/manager, regardless of whether or not those persons serve in management positions. NCUA's concept here may seem reasonable for a very large credit union with many employees. However, the reality is most credit unions are

small, some of them are very small with only one to five employees on staff in total. Under the proposed definition, the rule might require a very small credit union to disclose income of someone who is a part time front line teller with no management influence. Such a disclosure would impact the privacy of these employees with virtually no benefit to the membership contemplating a merger.

As to disclosures related to board volunteers, federal credit unions' volunteers may not receive compensation. Any required disclosure by a state chartered credit union authorized to compensate board members should be governed by state law.

Merger Related Financial Arrangement and the Trigger for Disclosure
Current regulation requires disclosure only if the covered person receives a "material increase" in compensation (defined as the greater of 15% or $10,000). The proposal, as drafted, would eliminate these thresholds and instead required disclosure of *any* increase in compensation or benefits received within 24 months prior to both boards' approval of the merger plan, as well as all future compensation that would not be received but for the merger, regardless of amount. We do not support this aspect of the proposal.

Although we appreciate the concern that potential financial motivations should be transparent, disclosure of de minimus increases or routine salary increases do not add much light to the merger story. Similarly, a slight increase in benefits available to employees of a small credit union who begin to work for a medium sized credit union post-merger cannot reasonably seen as enticement for a merger. In the same light, slight salary adjustments to bring small credit union employees up to the levels of other others similarly situated in positions isn't really an enticement for merger, but is more focused on retention and fairness. Such information is not a reasonable indication of a financial incentive, and therefore it should not be a required disclosure.

Member to Member Communication
The proposal seeks to establish a method in which members can communicate directly with other members prior to the vote. While a similar provision exists in relation to potential conversion of a credit union charter to a bank charter, that situation is different as it involves a true change of entity and structure. A merger with another credit union is not a parallel situation, as members continue to have access and ownership in the merged credit union.

Distribution of these communications would be complicated and costly. If member to member communication is adopted, it should at least provide for a more efficient and cost effective way of communicating, such as on a website portal.

Membership Approval of a Proposal to Merge
The proposal as written caused some confusion as to whether or not NCUA intended to

change the required vote for approval from “a majority of the members voting” to “a vote of the majority of the members”. Such a change would be significant, and as such likely would have been included in the summary if that was the intent. Obviously, it is highly unlikely that any credit union could accomplish engaging more than half their members to actually vote on the matter.

It is our interpretation that the NCUA intends to keep the required approval vote related to “a majority of the members of the merging credit union who vote on the proposal,” and that the confusion is related to the placement of the clause “as of a certain record date established by the board of directors”. To avoid future confusion, we suggest that NCUA revise that sentence to more clearly convey that a majority of the members voting is what is needed to approve a merger proposal.

Application to State Chartered Credit Unions

The proposed changes to the merger rule should not apply to federally insured state charted credit unions.

Section 708b.101(b), requires that a federally-insured credit union must receive prior written approval from the NCUA before merging with another credit union. This existing authority is for NCUA to ensure that mergers are safe and sound to protect the share insurance fund.

Member rights at state chartered credit unions should be protected by state laws and state regulators, rather than NCUA. When a state chartered credit union merges with a state chartered credit union, the only concern NCUA should have is for the insurance fund.

Please feel free to contact me if you have any questions.

Sincerely,

Suzanne Yashewski
SVP Regulatory Compliance Counsel
Cornerstone Credit Union League
1122 Colorado St Suite 1307
Austin TX 78701
(512) 853-8516
syashewski@cornerstoneleague.coop

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