CORNING CREDIT UNION

Gary A. Grinnell, President and Chief Executive Officer

September 29, 2017

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

Re: Proposed Rule on Emergency Mergers—Chartering and Field of Membership

Dear Mr. Poliquin:

On behalf of the Board and Management of Corning Federal Credit Union (CCU), I would like to take this opportunity to comment on the National Credit Union Administration's (NCUA's) recent proposal to amend the Chartering and Field of Membership Manual's definition of the phrase "in danger of insolvency" for purposes of an emergency merger.

By way of background, Corning Federal Credit Union is a $1.4 billion asset institution serving over 103,000 members. Our charter is multiple common bond, and as such we currently have numerous select employee groups (SEGs) and associational groups within our field of membership. We also serve several underserved areas in our geographic markets in New York, North Carolina, and Pennsylvania.

Over the years, CCU has both explored and successfully consummated multiple voluntary and involuntary mergers and considered several mergers at the specific request of NCUA. CCU has experience in working with credit unions in danger of insolvency, including several that were eligible for emergency merger consideration under the current rules.

We thank the NCUA Board for the opportunity to comment on its proposed changes to the Chartering and Field of Membership Manual. Specifically, NCUA has proposed lengthening by six months the forecast horizons for determining if a credit union is in danger of insolvency for two of the three current net worth categories. NCUA has also proposed adding a fourth category to the definition to include credit unions that have received Section 208 assistance over the past 15 months. Lastly, NCUA proposes a technical spelling correction to the definition replacing the word "relay" with the word "rely."

Overall, we are very supportive of NCUA's proposal, and we appreciate the agency's intent to increase the flexibility of the emergency merger process. We believe these positive changes will help to preserve and provide continuity in services to members and reduce the risk of losses to the National Credit Union Share Insurance Fund (SIF).

Following we provide detailed comment on the more significant of the proposed changes.

Lengthening of forecast horizons by six months

NCUA proposes lengthening the "forecast horizons," or time periods in which NCUA projects a credit union's net worth for determining if it is in danger of insolvency by six months for the first two of the three categories under the current definition. The agency is not proposing any change in the forecast horizon to the third category of the current definition in which a credit union is significantly undercapitalized and NCUA determines there is no reasonable prospect of the credit union becoming adequately capitalized within the next 36 months.

These changes would result in forecast horizons of 30 months (increased from 24 months) for the insolvency (zero net worth) category and 18 months (increased from 12 months) for the critically undercapitalized (under two percent net worth) category.

To justify its proposed lengthening of these forecast horizons, NCUA cites several data points illustrating how these changes would have impacted the number of credit unions that would have qualified for emergency mergers between the second quarter of 2010 and the fourth quarter of 2016. For example, according to NCUA's call report data, of the 46 credit unions that experienced an emergency merger during that time, 11 would have qualified sooner under the proposed rule. Additionally, NCUA's data demonstrates that a longer forecast horizon would allow the agency to identify potential emergency merger candidates sooner. Thirty-one percent of the credit unions that underwent an emergency merger during the surveyed period were estimated to be below the critically undercapitalized threshold within 12 months two quarters before the merger, and 50 percent were below the threshold one quarter prior. Under the proposed rule, these figures rise to 42 percent estimated to be below the critically undercapitalized level within 18 months two quarters before, and 58 percent one quarter prior.

Although based on a much smaller sample set, our subjective experience with emergency mergers supports this quantitative evidence. From the perspective of the continuing credit union merging with a credit union in danger of insolvency, CCU's members would have benefitted greatly from an extra six months of cushion before the merging credit union deteriorated further into insolvency. These circumstances damaged the merging credit union's ability to serve its members during the period immediately prior to the merger.

All merger transactions, including emergency mergers, demand months and sometimes years of due diligence on the part of both partners to ensure a full understanding of the membership base, assets, loan quality, financial soundness, products and services offered, and quality of staff before both organizations are comfortable enough to move forward. Each credit union is obligated to maintain the best interests of its respective membership base and to invest sufficient time and resources to ensure no stone is left unturned prior to committing to the merger.

Under the current rule, credit unions that qualify as being in danger of insolvency are often too far gone to allow potential merger partners sufficient time for proper due diligence. Understandably, strong credit unions are reluctant to consider mergers with credit unions in such a precarious safety and soundness position. As a result, NCUA has often been unable to identify qualified merger partners in time before the deteriorating credit union was forced into liquidation. In fact, on a few occasions CCU has been forced to turn down emergency merger opportunities presented by the Region due to safety and soundness concerns.

We feel strongly that the proposed increased time horizons will help ease this pressure and will bring much needed flexibility to the emergency merger process. This will in turn help to preserve vital member services and protect the SIF.

Expansion of "in danger of insolvency" to include fourth category

NCUA also proposes expanding the definition of "in danger of insolvency" to include a fourth qualifying category. This category would include those credit unions that were granted or received assistance under Section 208 of the FCU Act in the 15 months prior to the Region making such a determination.

In its summary of the proposed rule, NCUA cites some alarming statistics to justify this change. Specifically, according to NCUA's analysis, of the 181 credit unions that received Section 208 assistance between the first quarter of 2001 and the fourth quarter of 2016, 91.2 percent have stopped filing call reports. Additionally, of the 165 credit unions that stopped filing call reports over this period, the vast majority (92.1 percent) did so prior to or within 15 months of receiving the Section 208 assistance.

This data provides clear evidence that credit unions receiving Section 208 assistance are at high risk of insolvency. Therefore, we support NCUA's proposal to add this criteria as a new category to the definition of "in danger of insolvency."

However, we also feel it is worth noting this data highlights the poor track record of the Section 208 program. Since more than 9 out of 10 credit unions granted relief intending to help avoid liquidation end up leaving the credit union system regardless, it seems there may be better, more effective options available for the use of these funds. Considering that NCUA allows financial relief provided through the Section 208 program to be counted toward a credit union's net worth, such relief amounts to little more than a temporary band-aid and may result in the deferment of needed actions such as seeking a partner for an emergency merger or warranted and timely liquidation. The current process unfortunately covers up a multitude of foundational problems inherent in a credit union approaching insolvency.

We urge NCUA to explore ways to either improve the success rate of the Section 208 program or to seek more effective remedies to help struggling credit unions and maintain the strength and soundness of the SIF and the system as a whole.

Voluntary mergers

As welcome as NCUA's proposed changes to the Emergency Merger rule are, we urge the Board to also consider ways to improve the current voluntary merger criteria and process as well.

The industry has experienced a sustained and significant trend of consolidation for decades with an average of one merger per business day over the past 15 years. This trend is expected to continue, if not accelerate, as one industry expert predicts the number of credit unions may drop to just 4,000 by 2020.

With this as backdrop, it is imperative for NCUA to review the current process for approval of all merger types and consider cutting red tape where possible.

In the case of voluntary mergers, the rules are highly restrictive. For instance, multiple common bond credit unions cannot merge with community credit unions regardless of whether there are sound strategic and market-driven reasons to do so. This is another case of NCUA placing all credit unions in the same box with little regard for the merits or challenges of a particular merger opportunity. These arbitrary rules are not what is best for credit unions nor for our members.

We urge NCUA to consider expanding the rules for voluntary mergers with the same open-mindedness and common sense approach it has taken toward adding much needed flexibility to the emergency merger process for the benefit of all credit union members and protection of the Share Insurance Fund.

Conclusion

Thank you again for your consideration of our comments and those of others in the credit union industry on NCUA's proposed enhancements to the Emergency Merger rule. Overall, we are very supportive of these changes and believe they will provide much needed flexibility to the emergency merger process, help ensure the continuation of member services, and help protect the SIF. We urge the Board to continue seeking ways to make the merger process easier and more flexible for credit unions and their members.

Should you have any questions or require additional information in support of the recommendations made herein, please feel free to contact me at 607-962-3144, ext. 5292.

Sincerely,

Gary Grinnell
President and Chief Executive Officer

cc: The Honorable J. Mark McWatters, Chairman
The Honorable Richard Metsger, Board Member