

Cooperative Credit Union Association

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September 29, 2017

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

**Cooperative Credit Union Association, Inc. Comments on Proposed Rule on Emergency Mergers—
Chartering and Field of Membership
RIN 3133–AE76**

BY EMAIL ONLY

Dear Secretary Poliquin:

On behalf of the member credit unions of the Cooperative Credit Union Association, Inc. (“Association”), please accept this letter relative to the National Credit Union Administration’s (“NCUA”) Request for Comments on its Proposed Rule on Emergency Mergers—Chartering and Field of Membership. The Association is the state trade association representing credit unions located in the states of Delaware, Massachusetts, New Hampshire and Rhode Island, serving approximately 195 credit unions which further serve approximately 3.8 million consumer members.

The Association supports the Board’s proposed changes to the definition of the term “in danger of insolvency” for emergency merger purposes. Experience and time have shown that the current 2010 definition is not fully capturing credit unions at risk. As the entity charged with protecting the safety and soundness of the credit union system by mitigating costs to the NCUSIF, NCUA is tasked with finding appropriate merger partners for at-risk credit unions, when regulatory circumstances warrant. The proposed changes to the rule will better facilitate the emergency merger process.

Under the emergency merger provision of section 205(h) of the FCU Act, the Board may allow a credit union that is either insolvent or in danger of insolvency to merge with another credit union if the Board determines the situation meets a three-part test. In these exigent, rare circumstances, the Board may approve an emergency merger without regard to common bond or other legal constraints. This authority is consistent with that of state regulatory agencies charged with supervision of credit unions, for example, the

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Massachusetts Division of Banks and Loan Agencies.¹ The emergency merger statute is meant to address such exigent circumstances and is intended to serve the public interest and credit union members by providing for the continuation of credit union services to members and by preserving credit union assets and the NCUSIF.

Over time, the understanding of common patterns that lead to becoming an at-risk credit union has developed and improved, leading to the proposed changes to the “in danger of insolvency” definition today, which are fully supported by the Association. The Association agrees that such changes will expedite the handling of insolvency issues by the agency.

In particular, the Association supports the addition of a fourth category to the three existing net worth categories to include credit unions that have been granted or received assistance under section 208 of the Federal Credit Union Act in the 15 months prior to the Region’s determination that the credit union is in danger of insolvency. Statistical data, provided by NCUA, has borne out that the vast majority of credit unions who are granted such assistance ultimately stop filing Call Reports based on insolvency and fail.² The Association recommends that NCUA continue to collect and analyze this data, and further analyze and gain insight from the few credit unions that were granted this assistance, and subsequently met acceptable net worth requirements.

The Association does note, however, the delicate balance that must be struck between the public policy behind section 208 assistance and the implementation and execution of this fourth net worth category. While the Association defers to the NCUA to strike this balance, and while local credit unions support the availability of an additional and statistically significant tool, it must be emphasized that the determination that a credit union is in danger of insolvency must be holistic and not based solely or primarily on a credit union’s request for or acceptance of 208 assistance.

In addition, the Association suggests that the Board consider standardizing timeframes contained both within this final rule as well as throughout all regulations relative to capitalization and net worth. The proposal includes a six-month extension to the forecast horizon for two of the three categories resulting in forecast horizons of 30 months for the insolvency category, up from 24 months, and 18 months for the critically undercapitalized category, up from 12 months. The third category of no reasonable prospect of the credit union becoming adequately capitalized would remain unchanged at 36 months. The proposed look-back period for the proposed fourth category of 208 assistance is 15 months. For risk-based capital purposes, NCUA uses a 24-month look-back period. While the Association supports the extensions and additions suggested in the proposed rule, it is recommended that a holistic view of look-back and forecast timeframes is important and suggests that standardization of such timeframes may assist the industry.

¹ See Massachusetts General Laws Chapter 171 Section 79, which provides that if it is the determination of the Commissioner and insurer that it is in the best interest of all parties, a merger may be effected without regard to geographical limitations.

² “In total, 152 of the 165 credit unions, or 92.1%, stopped filing Call Reports prior to or within 15 months of receiving the section 208 assistance.” Federal Register/Vol. 82, No. 145/Monday, July 31, 2017/Proposed Rules Page 35497.

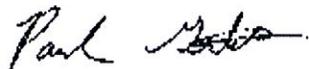
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The Association expresses its appreciation to the NCUA for seeking stakeholder input into this subject, and requests that the NCUA move forward with finalizing its proposal. I remain available to address any questions or concerns at pgentile@ccua.org that you or your staff may have at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Gentile". The signature is written in a cursive style with a horizontal line at the end.

Paul C. Gentile
President/CEO

PCG/mabc/kb