



August 26, 2006

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

RE: Comment on Proposed Rule Governing Conversion of Insured Credit Unions to Mutual Savings Banks 12 C.F.R. Part 708a

Dear Board Members:

Thank you for the opportunity to provide comments to the National Credit Union Administration on Proposed Rule 12 C.F.R. Part 708a, Conversion of Insured Credit Unions to Mutual Savings Banks.

The National Federation of Community Development Credit Unions (“Federation”) represents more than 200 credit unions dedicated to serving low-income communities. While on average, most are far below the asset size at which conversion to mutual savings banks is feasible or likely, the Federation does have a number of sizable members who could be considered candidates or targets for those promoting conversions. Moreover, the Federation has nearly 40 Community Development Partners, most of a very substantial size, who undoubtedly have been targeted by conversion advocates. At least one has embarked on this path.

The Federation – as all credit union organizations – has a vital interest in the trend toward conversions. We are deeply committed to the principles of financial cooperation, which we regard as crucial to serving people of modest means. Over the past several years, through our Community Development Partners program, we have been pleased that some of the movement’s largest organizations have dramatically increased their support for our common cause. A decrease in the ranks of large credit unions through conversion will undoubtedly diminish the resource base that the overall credit union movement provides for efforts to serve people of modest means.

The issue of credit union conversion rightly should attract the attention of the broader American public, as well – just as the conversion of nonprofit medical insurance providers to for-profit status has, and should. While credit unions and their net worth are owned and controlled by their members, it is impossible to ignore the component of net worth indirectly attributable to tax exemption – a cost borne by all Americans. Other nonprofit tax-exempt organizations, upon dissolution or charter change, must distribute their net worth to charitable organizations. The contrast to credit unions is worth considering.

Summary

In general, the Federation supports the proposed regulation and commends NCUA for its conscientious efforts to safeguard member rights.

We commend, in particular, NCUA's review not only of relevant law, but its research aimed at documenting the consequences of credit union conversions in recent years, which have demonstrably resulted in less advantageous financial services for credit union members. Rooting the discussion in the facts is an important service to credit union members. We strongly support NCUA's efforts to maximize disclosure, clarify procedures, and require clear, unambiguous language in all relevant documents. We agree that the enormous stakes in converting – and in almost all cases, ultimately “demutualizing” a credit union, to the profit of its senior officials – demand a very high standard of oversight by NCUA.

There are several areas, however, in which we believe NCUA can and should go further.

- Meeting of the board to consider conversion

- a. A credit union board should publicize its intent to vote on a conversion to all members through mail and/or e-mail, as well as through branch bulletins, a website announcement and newspaper advertisements.
- b. The location, date, and time of the board meeting to consider conversion should be clearly announced. While recognizing the wide geographies of many large credit unions, we believe that the members should have, to the greatest degree possible, an opportunity for face-to-face contact with the board members voting on this decision.

The most democratic means for achieving this would be to open at least a portion of the board agenda to the membership. If this is prohibited by regulation, the board should hold a “town hall meeting” immediately following the close of its session to discuss the issues. School boards, transportation authorities, rent-control boards, and many other public bodies hold public hearings on highly contentious matters. Credit unions, which aspire to a high level of transparency, should do no less.

- Incentives

- a. The Federation opposes permitting credit unions to offer incentives for member-owners to participate in a conversion election. Incentives may increase the number of “casual” or indifferent voters; they will not increase the numbers of those who properly regard conversion as a matter of the highest importance.

- Access to the books and records

- a. NCUA should explicitly include the right of members to access any correspondence - - written or e-mail, addressed individually or collectively -- between outside promoters of conversion and the board of the credit union.

- Voting procedures

- a. Credit union members should be permitted to change their vote until such time as the ballot box is closed, as is the case with private corporations. This is consistent with the shareholder rights of for-profit companies and Robert's Rules of Order. We believe that a clear statement from NCUA authorizing members to change their vote prior to the finish of the special member meeting would provide clarity for all involved and ensure parity with for-profit companies.
- b. NCUA should explicitly prohibit the inspector of elections from providing running vote tallies to a credit union's board of directors and officials.
- c. The Federation strongly supports limiting distribution of ballots to the thirty-day mailing.

- Boxed disclosure

In general, the Federation welcomes the language and approach proposed by NCUA. We would suggest there are several ways in which the disclosure and its dissemination could be strengthened.

- a. NCUA should explicitly prohibit the rebuttal of the required "boxed" disclosure by management. Once a regulation is validly adopted and promulgated, rebuttal or any other implication that the information is open to question is inappropriate.
- b. The diminution of voting rights that usually occurs with conversion to a mutual institution (i.e., voting proportionate to deposits, rather than one-member, one-vote) should be part of the boxed disclosure.
- c. The boxed disclosure should explicitly identify the board's intentions regarding a subsequent conversion to a stock bank. The Federation regards this as a key motivator of conversion efforts, and one that should be absolutely transparent to all members.
- d. Credit unions should be required to include the boxed disclosure in any written communications to members regarding the conversion process. This will reduce any potential confusion or biased communication to the membership.

- Communicating Member Views

- a. A \$200 fee for mass e-mail communications is not an unreasonable barrier. However, e-mail inevitably fails to reach a portion of the membership – sometimes, a very substantial portion. Consequently, mailed communications are necessary. However, it is unreasonable to expect any individual or group of individuals to bear the costs of communicating to a credit union membership that may number in the hundreds of thousands.

The expense of mailed member-to-member communications should be borne by the credit union. We think it is quite plausible for a credit union to collect all comments received by a specified date, and include them in a single mailing no later than the 30-day mailing.

- b. While we understand the need for member communications to be germane, we are concerned by NCUA's exclusion of communications that "relate to any matter, including a general economic, political, racial, religious, social or similar cause, that is not significantly related to the proposed conversion." An overly strict application of this exclusion would prevent a member, for example, from discussing conversion in the context of a credit union's historic mission of "serving people of modest means," or the unequal access to services historically provided by banks.

Conclusion

Except where noted above, the Federation supports NCUA's proposed regulation. The changes we have recommended all are directed to *strengthening* further the proposed disclosures and procedures. We commend the agency for its thoughtful and far-reaching approach to this issue, which is of paramount importance for the future of the financial-cooperative movement in the United States.

Sincerely,

Clifford N. Rosenthal
Executive Director