

**BUILDING TRADES FEDERAL CREDIT UNION****BUILDING THE FUTURE**

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August 27, 2006

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

[William W. Byerly, Jr.] Comments on Proposed Rule Part 708a

Dear Ms Rupp:

On behalf of the members and the volunteers of Building Trades Federal Credit Union, I appreciate the opportunity to comment on the proposed rule. Most of the comments we offer are broad in nature, except for one example regarding the boxed disclosures.

First, the NCUA seems to spend an inordinate amount of time justifying that the proposed rule complies with the Credit Union Membership Access Act which specifically states that conversion rules are:

“consistent with the charter conversion rules promulgated by other financial regulators and no more or less restrictive than rules applicable to charter conversions of other financial institutions”

The arguments presented are not very convincing and it appears that the NCUA is “pushing the envelope” of its regulatory authority. It also appears that the proposed rules protect the self-interest of the NCUA and the various trade groups instead of truly protecting member interests. My view is also supported by the fact that the NCUA will have modified the rule four times since 1999, specifically making changes in each of the last three years. Clearly, there is more involved here than simply protecting the member’s interests and the NCUA’s actions has moved beyond the original congressional intent of the CUMAA.

Second, the proposed rules present new hurdles to conversion that significantly increase costs for credit unions, particularly smaller ones, as well as driving up costs at the NCUA. This is a step backwards in my opinion and the high cost effectively prevents many credit unions from considering conversion, even though it may be in their best interests to do so.

Third, although there are many examples that I could offer regarding the general ineffectiveness of the proposed regulation, in the interest of brevity I would like to offer one specific example of where the proposed regulation fails in a very apparent way. It is the proposal’s reference to the boxed disclosure for rates on loans and savings.

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For many years our credit union has had lower savings rates and higher loan rates than most credit unions. In fact, depending upon the yield curve, there are periods where our savings rates are below that of the local banks. The primary reason for our interest rate decisions is to build capital which funds growth and to provide all the services that members demand in a vibrant and competitive market. Matching other credit union rates would guarantee that our organization would never grow and we would ultimately have to merge with another credit union or voluntarily liquidate. While it is a delicate balance, our membership has generally accepted the rate offerings and we have continued to survive which is probably due to a high level of personal service that is provided. My point is that if BTFCU were contemplating a conversion to a mutual savings bank the boxed disclosure would be highly misleading to our membership because our members would unlikely see any change in loan or savings rates.

**Finally, it is our belief that industries which rely on regulations to protect themselves from competition inevitably build a coffin instead of a wall.** The proposed rule attempts to build a wall around the credit union community by effectively preventing mutual conversions, except for only the very large credit unions. The reality is that the credit union economic model is broken because credit unions are unable to renew themselves. Very few credit unions are formed each year with most of them being community development credit unions initially started with federal government funding. After a few years of struggling to grow, and with weak financial condition, they are often closed by the NCUA, unable to fulfill their original mandate. The Credit Union Membership Access Act of 1998 broadened the idea of community-based credit unions as the future of the industry. **So why aren't new community credit unions being formed across the country, particularly in areas that are underserved by the banks and thrifts?** The simple answer is that there is no economic mechanism for individuals to pool their resources, put some capital at risk and form a credit union for their mutual benefit. A capital infusion by members/owners is critical, particularly at the formation of a credit union. It would give new credit unions the ability to grow quicker and to more efficiently provide a broad range of services that meet the financial needs of its members. As it is today, the few credit unions that are formed have limited services and struggle for years, unable to truly meet the needs of its members. In the end, the downfall of credit unions will not be caused by the removal of their tax-exempt status, or by a mass conversion to mutual savings institutions, or even by the competitive pressure of the banking industry. It will be caused by the lack of renewal in the credit union industry due to an ineffective capital structure. Alternative forms of capital are critical for the long-term survival of credit unions in the United States. As it stands now, it is a zero-sum game as 200-300 credit unions disappear each year, particularly smaller ones. The NCUA and the trade groups falsely believe that letting too many conversions occur will create a crisis and is using regulation to curtail that process but instead they are adding nails to the coffin. Conversely, with renewal and growth many new credit unions would be formed each year lessening the concern about the few credit unions that happen to choose conversion as their path. Creating new regulations that throw up arbitrary hurdles to prevent mutual conversions will not enhance the credit union model but instead hasten its demise.

Sincerely,

William W. Byerly, Jr., CPA  
President/CEO