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October 13, 2005

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

Sent via email

Re: Comments on FCU Bylaws

Dear Ms. Rupp:

The Pennsylvania Credit Union Association (PCUA) appreciates this second opportunity to provide comments to the proposed revisions to the FCU bylaws. The PCUA is a state-wide trade association that represents over eighty-five percent (85%) of the approximately six-hundred forty-nine (649) credit unions located within the Commonwealth of Pennsylvania. PCUA filed a comment letter, dated November 29, 2004, to the NCUA's initial request for comments to proposed revisions to the FCU bylaws.

To respond to this request for comments, the PCUA again consulted with its Regulatory Review Committee (the Committee). The Committee consists of twelve (12) credit union CEOs who lead the management teams of Pennsylvania federal and state-chartered credit unions. Members of the Committee also represent credit unions of all asset sizes. The comments contained in this letter reflect the input of the Committee and the PCUA staff.

General Comments:

One of the most critical issues currently facing the credit union movement is the conversion of credit unions to mutual savings banks. The PCUA board of directors has adopted a policy statement that recognizes the right of credit unions to change charters. However, the policy also states that a credit union owes a fiduciary duty to its membership, including full and fair disclosures of the impact that a conversion would have on the members' ownership and economic interests.

In addition, the policy statement provides that members opposing a credit union conversion must be afforded the opportunity to present their position to the entire membership. The policy concludes with a

statement that the Association is committed to taking action that promotes and preserves the credit union charter as the charter of choice. A copy of PCUA's statement of policy is attached for your review.

Consistent with the policy statement adopted by the PCUA board, the Committee proposes that NCUA include FCU bylaws options for consideration by FCU boards to address credit union conversion proposals. For example, our group urges NCUA to consider the adoption of the bylaw options that would:

- Guarantee that groups of dissenting members have an opportunity and the means to share their concerns about a conversion proposal with the membership.
- Ensure members are informed of their right to and the option for apportionment of the equity prior to conversion.
- Authorize full or partial distribution of equity to dissenting voters subsequent to a vote for conversion.
- Require that only credit union members that do not have a conflict of interest may initiate a proposal to convert. The credit union may also set the threshold for the percent of member signatures required for a petition to convert.
- Increase the membership vote required for a conversion to a majority of the members.

PCUA requests that NCUA include the provisions as options in the standard FCU bylaws so that FCUs are not required to obtain approval on a case-by-case basis in order to add the above-referenced provisions when a FCU board deems such bylaws appropriate. In addition, if standard language is pre-approved by NCUA, FCU boards will be more likely to consider adopting them, as appropriate, to address conversion proposals that may not be in the best interests of their membership.

The Committee submits that credit union members should play a more active role in determining the structure and destiny of their financial institution rather than simply receiving notice and allowing board members and/or officers of the credit union to control such an important decision.

Article IV – Meetings of Members:

The Committee and PCUA staff support the new sentence at the end of Section 4 to notify members of the rules of order or procedure that the FCU will use when conducting member meetings. A vast majority of credit unions have adopted formal rules for member meetings and agree that such rules increase the overall effectiveness, fairness and organization of the meetings.

Article V – Elections:

The proposal amends Section 2(c)(2) to require FCUs to mail paper ballots to all members when conducting an election by electronic means. While the Committee appreciates NCUA's concern that members without the equipment or desire to vote electronically should not be subject to additional hurdles in attempting to exercise their vote, the Committee requests that NCUA reconsider this requirement.

We acknowledge that there will always be a segment of members that are not technologically savvy and that will continue to need or want to use paper ballots. However, there are also many members that use technology and understand that such use can result in a reduction of cost and expense to their credit union. We request NCUA to reconsider weighing the interests of the many members that use technology to allow their credit union to avoid duplicative cost and expense associated with elections against the interests of those members that do not use technology.

The Committee and PCUA staff submit that providing members, who need or want paper ballots, with the ability to request them balances the competing interests of members who vote electronically and also encourages the future use of technology to reduce duplicative cost and expense to the credit union.

Article VI – Board of Directors:

The proposal amends Section 4 to provide that FCU directors fill vacancies on the board of directors, credit committee, and supervisory committee “as soon as possible, but no later than the next regularly scheduled board meeting.” The proposed language replaces the current standard that directors fill vacancies “within a reasonable time.” NCUA is soliciting comments as to whether the FCU bylaws should include a time frame such as the one proposed so that FCU boards act quickly to fill vacancies.

While the Committee and PCUA staff understand the need for a more objective standard than “within a reasonable time,” the current proposal could unintentionally cause other problems. For example, it is common for a credit union board to experience unforeseen vacancies on the board of directors, which can occur just prior to a scheduled board meeting. Is the board required to postpone the meeting until the vacancy can be filled?

In many cases, and particularly with regard to small credit unions, qualified candidates that are willing to serve as a volunteer on the credit union board can be difficult to find. Must the board continue to postpone meetings even if the board is aggressively seeking candidates but is unable to find one willing to serve? This situation can be disruptive to the operation of the credit union.

The Committee and PCUA staff support the proposal that adds a list of board responsibilities in Section 6(d) by acknowledging that boards should establish a training policy for directors and volunteer officials that covers areas such as ethics, fiduciary responsibilities and accounting, as part of the duties customarily performed by boards of directors. However, it is foreseeable that qualified candidates may be even more difficult to recruit when additional training and educational requirements are placed upon them as a condition of volunteering to serve as a director of their credit union.

The requirement that the board fill a vacancy before the next meeting is held can be overly burdensome as the time frame between meetings is typically thirty (30) days. The Committee suggested that ninety (90) days would provide more flexibility and also quantify a reasonable time frame pursuant to which a vacancy must be filled.

Article VII – Board Officers, Management Officials and Executive Committee:

In our FCU bylaw comment letter dated November 29, 2004, we suggested that Article VII, Section 2 be amended to extend the period of time in which a reorganization meeting is held after the annual meeting from seven (7) to at least thirty (30) days.

Ms. Mary F. Rupp
Secretary of the Board

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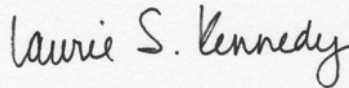
In its latest proposal, NCUA states that it is unnecessary to change the seven-day limit in light of the meeting options available and the necessity for the board officers to be elected as soon as possible to prevent interruptions in the board's operation. However, NCUA is seeking comments to determine whether the seven-day limit is a problem for FCUs.

Our Committee members indicated that while the seven-day limit is typically not a problem for larger credit unions, it does often pose a problem for smaller ones. It can often take several days for a small credit union to disseminate election result information to its membership. NCUA may want to consider extending the seven-day limit for smaller credit unions.

Thank you again for this opportunity to comment on behalf of Pennsylvania credit unions. Please feel free to contact me or any of the PCUA staff at 1-800-932-0611 if you have any questions or if you would like to discuss our comments.

Sincerely,

Pennsylvania Credit Union Association

A handwritten signature in black ink that reads "Laurie S. Kennedy". The signature is written in a cursive style and is centered within a light gray rectangular box.

Laurie S. Kennedy
Associate Counsel

LSK:llb

Attachment

cc: Association Board
Regulatory Review Committee
J. McCormack
R. Wargo
M. Dunn, CUNA