



September 29, 2008

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314
(Sent via email)

RE: Comments on Amended Definition of Post-Merger Net Worth

Dear Ms. Rupp:

On behalf of the Association of Corporate Credit Unions (ACCU), I am responding to the request for comments by the National Credit Union Administration (NCUA) regarding its Notice of Proposed Rulemaking (proposed rule) to amend its regulations to address accounting matters related to mergers of natural person and corporate credit unions. Since the ACCU represents the interests of the nation's corporate credit unions, I will limit my comments to that area.

ACCU supports the proposed rule and we believe the proposed rule adequately addresses the accounting and regulatory challenges posed by the replacement of the pooling method of accounting in mergers in favor of the acquisition method by the Financial Accounting Standards Board (FASB). ACCU provides the following specific comments generally supporting the proposed rule, but also requesting certain modifications.

Corporate Credit Unions and Minimum Capital Ratios

As is the case for post-merger net worth calculation for natural person credit unions, the proposed rule would make amendments to calculations of a corporate credit union's minimum capital ratio. The proposed rule would amend Part 704 of NCUA's rules and regulations by modifying the definitions of the terms "capital," "core capital" and "retained earnings ratio." These terms would be changed so that a corporate credit union that acquires another by merger can include "the retained earnings of the acquired credit union, or an integrated set of activities and assets, at the point of acquisition."

As NCUA recognizes, there are fewer statutory constraints on the agency to establish regulatory accounting requirements for corporate credit unions. Consistency between Regulatory and GAAP reporting would create efficiencies and help address uncertainties in the marketplace. With this in mind, changes to Part 704's accounting provisions should be

consistent with GAAP. Accordingly, we encourage NCUA to make necessary amendments to its rules to achieve this goal by noting that net worth with respect to any insured corporate credit union means the retained earnings balance of the corporate credit union and any capital arising from the acquisition of a corporate credit union as determined under GAAP. A benefit of this wording is that corporates would continue to operate in an environment in which regulatory and GAAP capital are treated in the same manner. Capital arising from the acquisition of a corporate credit union would most likely exceed retained earnings that existed immediately preceding the merger. In this scenario, the Purchase Method would actually increase the regulatory capital ratios immediately after a merger. However, in future periods, if goodwill or intangible assets become impaired, the charge would reduce retained earnings and also reduce the capital ratio. Maintaining consistency between regulatory and GAAP definitions would create efficiencies for the users of audit reports and 5310 data.

Further, with respect to the treatment of goodwill and intangible assets, we understand that banking regulators (Federal Deposit Insurance Corporation, Office of Thrift Supervision, Office of the Comptroller of the Currency and the Federal Reserve Board) are proposing to allow acquirers to count goodwill toward Tier 1 capital requirements. Under current Financial Accounting Standards Board rules, acquirers have to accept writedowns if a seller's assets are less than the purchase price. We encourage NCUA to evaluate this as part of its proposed rule.

The proposed changes would enable corporate credit unions to comply with FASB's standards for financial reporting purposes while resolving the regulatory accounting dilemma that would arise in mergers as a result of FASB's changes. Like the proposed amendments related to post-merger net worth calculations for natural person credit unions, the proposed modifications to include retained earnings of the acquired entity to capital, core capital and retained earnings ratio of the acquiring entity, would provide corporate credit unions a wider range of management options with reduced concern over violating the regulatory minimum capital ratio.

The proposed rule would also define "mutual combination" as follows:

"A transaction or event in which a corporate credit union acquires another corporate credit union, or acquires an integrated set of activities and assets that is capable of being conducted and managed as a corporate credit union for the purpose of providing a return in the form of economic benefits directly to owner members."

As proposed, the definition would establish an "economic benefits directly to owner members" standard. We are not convinced that this standard is either necessary or would ultimately serve in the best interests of owner members. NCUA would create a standard that would be difficult to define and difficult to meet. While owner members should directly benefit from a merger, we believe a less restrictive standard would prove to be more beneficial to owner members while also making the transaction less daunting for corporate credit unions.

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Accordingly, we recommend that NCUA remove the following clause: “for the purpose of providing a return in the form of economic benefits directly to owner members.”

In addition, we believe the proposed definition should be revised to make clear that “capable of being conducted and managed as a corporate credit union” is referring to the resulting entity and not the acquirer or the entity being acquired. Thus, we recommend that NCUA add the phrase “upon combination” after the “activities and assets.”

ACCU appreciates this opportunity to share its comments on the proposed rule. Should you have any questions or require additional information please contact me at (202) 508-6731.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad L. Miller". The signature is stylized with a large, looping initial "B" and a cursive style for the rest of the name.

Brad L. Miller
Executive Director