

**VOLUNTARY LIQUIDATION
PROCEDURES FOR
FEDERAL CREDIT UNIONS**

Revised February 1994

Foreword

A majority of the members of a federal credit union may vote to place the credit union into voluntary liquidation. The assets are then converted to cash to pay the liabilities and the shareholders. Before action is taken to liquidate a credit union, the board of directors should determine whether liquidation is advisable by carefully considering all factors leading to the proposal and carefully considering all available options.

The procedures contained in this manual will enable the board of directors or liquidating agent to conduct the liquidation of a federal credit union in an orderly and expeditious manner and to arrange for distribution of the assets to the members without undue delay.

The regional director and other NCUA staff will assist the credit union in the timely completion of the liquidation.

Norman E. D'Amours, Chairman
National Credit Union Administration Board

This manual cancels the previous Voluntary Liquidation Procedure for Insured Federal Credit Unions dated June 1972 and its changes.

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Section I - Considering Liquidation

Voluntary Liquidation

A voluntary liquidation is the dissolution of a solvent federal credit union with the assets being sold or collected, liabilities paid, and shares distributed under the direction of the board of directors or a duly appointed liquidating agent. A voluntary liquidation provides an opportunity to pay a liquidating dividend to the members.

Statement of Policy

The requirements for a voluntary liquidation are included in Part 710 of the NCUA Rules and Regulations. This manual is written as a step-by-step guide for conducting the voluntary liquidation of a federal credit union. Federally insured state credit unions are only required to notify the regional director of a decision to enter voluntary liquidation and provide copies of current financial statement and any liquidation plan. State credit unions should follow requirements of state law and procedures provided by the state regulator.

Voluntary liquidation is an option only if the federal credit union is solvent and can be projected to remain solvent during the liquidation process. Section 207 of the Federal Credit Union Act requires the NCUA Board to place federal credit unions determined to be insolvent into involuntary liquidation.

Alternatives to Liquidation

Liquidation is only considered in extreme cases, such as, sponsor closings or inability to attract qualified officials. Even in these situations, merger, field of membership changes, or reorganization of the board of directors should be considered, so continued credit union service can be provided.

In some cases the board of directors approve voluntary liquidation because the accumulated equity of the credit union can be used to pay a liquidating dividend. Before entering liquidation a budget should be prepared recognizing that during the liquidation process it is likely that income will be reduced and expenses will increase, so the equity could be eliminated during a protracted liquidation. Also, at least a portion of the members' shares may not be available during liquidation, and this fact could reduce the benefit of a liquidating dividend. Merger, with a payout of a portion of the

accumulated equity with a merging dividend, is an option that deserves consideration since the members receive both a distribution of equity and continued credit union service.

After considering all options, if the directors decide liquidation is in the best interest of the members, actions should be approved to expedite the liquidation process.

Definitions

Throughout this manual various terms and abbreviations are used. These terms are defined as follows:

Liquidating Agent - The person or persons, including any legally recognized entity, appointed by the board of directors with authority to conduct the liquidation. The board can delegate its full authority to conduct the liquidation or only limited items can be delegated. The board should be very specific in listing the authority delegated.

The board - Credit union's board of directors

NCUA - National Credit Union Administration

NCUA Board - National Credit Union Administration Board

NCUSIF - National Credit Union Share Insurance Fund

Notice - Notice of liquidation to creditors

Commencement Date - The date the board votes to present the question of liquidation to the members.

Liquidation Date - The date the members vote to approve liquidation.

Regional Director - The regional director of the National Credit Union Administration. The staff assigned to the regional director deal with many issues involved in voluntary liquidations, so in many cases in this manual the term "regional director" means NCUA regional staff.

Section II - Commencement of Liquidation

Approval of Liquidation

As soon as it is determined that liquidation is advisable, and other alternatives are not acceptable, the board of directors should vote to present the question of liquidation to the members. The members must be given an opportunity to vote on the issue, and the voluntary liquidation must be approved by a majority of the members who vote on the proposal.

Within 3 days the regional director must be notified of the board's decision to present the question of liquidation to the members. The notification should provide the reasons for the board's action and include copies of the most recent financial statements. The regional director must be able to determine that the federal credit union is solvent and will likely remain solvent during the liquidation process. In order to monitor the progress of the liquidation, the regional director may request copies of financial statements on a periodic basis.

Responsibility for Conducting Liquidation

The board of directors is responsible for conserving the assets, for expediting the liquidation, and for the equitable distribution of the assets to the members. The board can direct the liquidation or appoint a liquidating agent.

The bonding company should be notified of the status of the credit union. The board should determine that any liquidating agent and all persons who handle or have access to funds are adequately covered by the surety bond. The surety bond should remain in effect, or the discovery period should be extended, for at least 4 months after the final distribution of assets. Generally, it should be less expensive to extend the discovery period for the 4 months rather than keeping the surety bond in effect for that period.

Appointment of Liquidating Agent(s)

After voting to present the question of liquidation to the members, the board of directors may appoint and determine reasonable compensation for a liquidating agent. The board can delegate all or part of the board's responsibility to the liquidating agent. The board should be very specific about the authority delegated, and the specifics of the

delegation should be recorded in the board minutes. In addition, a formal delegation of authority should be prepared and signed by the chairman and secretary of the board. A sample delegation is included in this section on page II-9.

The board will normally maintain control over the credit union during the liquidation process. However, if the board will be dispersed or otherwise unable to direct the liquidation, additional delegations should be provided. The following is a partial list of potential delegations that should be considered by the board:

- Authority to sign checks and revoke authority of persons no longer involved in the operation (liquidation) of the credit union.

- Provide authority to enter the safe deposit box and revoke authority of persons that no longer need access.

- Authority to employ, compensate, and terminate other staff needed for the liquidation of the credit union. This authority can be complete to the point of providing authority to appoint a successor liquidating agent and authority to redelegate power and authority. The authority to employ staff must be delegated with the responsibility to obtain bond coverage for those employed.

- Authorize and pay necessary operating expenses.

- Make and redeem investments.

- Employ an attorney or collection agency.

- Institute legal proceedings as necessary.

- Assume custody of the books and records during liquidation.

- Enforce liens on collateral.

- Charge off loans.

- Sell loans, real estate, furniture, equipment, and any other asset owned by the credit union.

- Destroy obsolete records.

- Make partial distributions approved by the regional director.

- Make the final distribution including authority for the disposition of any funds received after the final distribution.

- Appoint a custodian of the records.

Transaction of Business

As soon as the board of directors votes to seek membership approval of liquidation the following business shall be suspended:

- Accepting payments (deposits) on shares.

- Withdrawal of shares except share draft clearings.

- Transfer of shares from one account to another.

- Granting of loans and the disbursement of loan proceeds except for clearing credit card charges.

- The making of investments other than short term investments with maturity dates shorter than the projected final distribution.

- The payment of dividends.

Collection of loans and interest, payment of necessary expenses, clearing of share drafts and credit card charges will continue. When liquidation has been authorized by the members, all of the business activities listed above shall be permanently discontinued. Collection of loans and interest and payment of necessary expenses will continue during the period of liquidation. Members will be notified to discontinue the use of share drafts and credit cards, and items will not be cleared 15 days (or up to 20 days for credit card items) from the liquidation date.

The directors and the liquidating agent may be held personally liable by the members for any losses of liquidating dividends because of preferential treatment of members in accepting share payments after the board votes to present the question of liquidation to the members.

Membership Vote

Article V of the Federal Credit Union Bylaws provides the requirements for membership meetings. The board must schedule a membership meeting and notify the members that they have the right to vote on the liquidation proposal in person at the membership meeting or by written ballot. A sample ballot is included in this section on page II-13.

Since the liquidation cannot proceed until membership approval is obtained, the board must act promptly to schedule the membership meeting. If the members do not approve the liquidation, the board or liquidating agent must decide within 7 days if the credit union should resume operations or if the question of liquidation should be re-submitted to members. If the board or liquidating agent decides to rescind the decision to liquidate, the reasons for the proposed liquidation must be addressed. Action must be taken to correct the conditions that caused the board to present the liquidation question to the members. Once the members approve the liquidation, neither the members or the board can rescind the decision without the regional director's approval.

The regional director must be notified of the results of the membership vote on voluntary liquidation within 3 days of the membership meeting.

Liquidation Plan

The board or liquidating agent must develop a written plan for the liquidation of the assets and payment of shares. The liquidation plan should provide for the liquidation of the credit union within one year of the liquidation date. If the liquidation is expected to take more than one year, an explanation must be provided in the plan. The plan should address the liquidation of each asset listed on the balance sheet. For example, will loans be sold or collected? Is it possible to sell a portion of the loans, and collect the remaining? Items not appearing on the balance sheet must also be addressed. For example, charged off loans should be sold.

Income and expense items must also be projected to determine that sufficient funds will be available to finance the liquidation of the credit union. Payment of liabilities and shares should also be scheduled. The payment of member shares should be completed within 10 months of the liquidation date, so the liquidation can be completed within a year. Since shares are not available for withdrawal during the liquidation, partial distributions should be considered as funds become available from the liquidation of assets. The regional director must approve each partial distribution.

The plan must provide for a cost effective and prompt liquidation that is in the best interests of the members. In addition, projections must support that the credit union will remain solvent during the liquidation process.

Closing the Books

The member share balances as of the date the board voted to present the question of liquidation to the members (the commencement date) will be used to determine the basis for any liquidating dividend. Therefore, it is necessary that the books be closed as of the date the board voted to present the question of liquidation to the members. The closing procedures will be the same as detailed in the Accounting Manual for Federal Credit Unions to be used at the end of the accounting period.

Notice of Liquidation to Creditors

After the members approve the liquidation, the board or liquidating agent shall notify creditors to present their claims. A sample Notice of Liquidation is included in this section on page II-16. The Notice of Liquidation shall be printed in a newspaper of general circulation in each county in which the federal credit union maintains an office or branch on the liquidation date. The Notice of Liquidation shall be printed in accordance with the following schedule:

- Federal credit unions with assets in excess of \$5 million as of the month end prior to the liquidation date shall publish the Notice of Liquidation once a week in each of 3 successive weeks. The first notice should be published within 7 days of the liquidation date.

- Federal credit unions with assets in excess of \$500,000 but less than \$5 million as of the month end prior to the liquidation date should publish the notice once. The notice shall be published within 7 days of the liquidation date.

- Federal credit unions with assets less than \$500,000 as of the month end prior to the liquidation date are not required to publish a Notice of Liquidation.

This schedule represents the minimum publication required by Part 710 of the NCUA Rules and Regulations. In appropriate cases, the board or the liquidating agent may determine that additional publications are desirable or prudent.

Within 10 days of the liquidation date, a copy of the Notice of Liquidation shall be mailed to all creditors reflected on the records of the credit union. A copy of the Notice of Liquidation should be posted in each of the credit union's offices.

Creditors must be provided at least 30 days from the liquidation date to submit their claims.

When arrangements are made for the publication of the notice, a Proof of Publication should be requested from the newspaper. The Proof of Publication should be retained as part of the liquidation records.

Checklist

Commencement of Liquidation

TASK	RESPONSIBLE OFFICIAL	COMPLETION DATE
Vote to present the question of liquidation to the members, record action in the board minutes, suspend normal business.	Board of Directors	
Notify regional director within 3 days of decision to pursue liquidation. Include copy of most recent financial statement.	Chairman of Board	
Appoint liquidating agent and establish compensation, delegate responsibility and authority to the liquidating agent, record action in the board minutes.	Board of Directors	
Notify bonding company of status of Board of Directors credit union, determine that bond coverage is adequate, extend discovery period.		
Notify members of special membership meeting, provide ballot.	Board Secretary or Liquidating Agent	
Conduct special membership meeting.	Board of Directors	
Notify regional director of the results of the membership meeting.	Board President or Liquidating Agent	
Develop Liquidation Plan, provide copy to regional director within 30 days of the board's vote to liquidate.	Liquidating Agent	
Close the books.	Liquidating Agent	
Arrange for the publication of the Notice of Liquidation to Creditors, obtain proof of publication.	Liquidating Agent	

Sample Letter - Appointment of Liquidating Agent

June 30, 19--

Jane Smith
123 Main Street
Any City, Any State 00000

Dear Ms. Smith:

On June 29, 19--, the board of directors of Sample Federal Credit Union voted to present the question of liquidation to the members. Pursuant to the authority conferred in Section 710.2(b) of the National Credit Union Administration Rules and Regulations (12 CFR 710.2(b)) the board of directors is authorized to appoint liquidating agents and delegate all or part of the board's responsibility to such agent.

By the authority of the board of directors, you are hereby appointed liquidating agent of Sample Federal Credit Union. This appointment is effective as of the date of this letter and continues in force until revoked in writing.

As liquidating agent, you possess the authority normally delegated to a liquidating and claims agent, including, but not limited to, the authority to appoint sub-agents; to take possession of books, records, assets, and property of the credit union; to sell, enforce collection of, and liquidate all such assets and property; to compound all bad and doubtful debts; to sue in your name or in the name of the credit union and defend such actions as may be brought against the credit union; to make distribution and payment to creditors and members as their interest may appear; and to execute such documents and do such other acts as may be necessary or desirable to wind up the affairs of the closed credit union.

Sincerely,

John Doe, Chairman
Board of Directors

Sample Document - Delegation of Authority

DELEGATION OF AUTHORITY

Section 113 of the Federal Credit Union Act (12 USC 1761b) provides that the board of directors shall have general direction and control of the affairs of a federal credit union. Section 710.2(b) of the National Credit Union Administration Rules and Regulations (12 CFR 710.2(b)) authorizes the board of directors to appoint liquidating agents and delegate all or part of the board's responsibility to such agent.

On June 29, 19--, pursuant to these authorities, at a duly constituted meeting, the board of directors of Sample Federal Credit Union delegated the following authorities to Jane Smith, Liquidating Agent:

- Authority to submit and resubmit the question of liquidation to the members.
- Authority to hire and dismiss staff and to appoint other liquidating agents.
- Authority to take possession of the books, records, assets, and property of the credit union.
- Authority to sell, enforce collection of, and liquidate all assets and property of the credit union.
- Authority to compound all bad and doubtful debts.
- Authority to sue in the name of the liquidating agent or the name of the credit union, and authority to defend such actions that may be brought against the credit union.
- Authority to make distribution and payment to creditors and members.
- Authority to execute documents and do such other acts as may be necessary or desirable to wind up the affairs of the Sample Federal Credit Union.

Dated this 30th day of June, 19--.

John Doe, Chairman

Sam Smith, Secretary

Sample Letter - Surety Bond Company

June 30, 19--

ABC Insurance Company
Post Office Box 123
Any City, Any State 00000

Gentlemen:

On June 29, 19--, the board of directors of Sample Federal Credit Union voted to present the question of voluntary liquidation to the members. Jane Smith was named as liquidating agent. We have prepared a liquidation plan and the final distribution of assets to the members is projected to be completed by December 31, 19--.

We request that surety bond coverage remain in effect, that all persons who handle or have access to funds remain insured, that coverage be provided for Jane Smith, and that the discovery period be extended through April 30, 19--. Please forward an invoice or refund for the bond premium plus the discovery endorsement.

If our insurance needs change or the projected final distribution date changes, we will notify you accordingly.

Sincerely,

John Doe, Chairman
Board of Directors

Sample Letter - Regional Director Notification

June 30, 19--

Dean Smith, Regional Director
National Credit Union Administration
123 South Florida Avenue
Any City, Any State 00000

Dear Mr. Smith:

On June 29, 19--, the board of directors of Sample Federal Credit Union voted to present the question of voluntary liquidation to the members. Our sponsoring organization, Sample Tool Company, has elected to discontinue operations in this city, so the future viability of the credit union is questionable.

We have explored without success the possibility of merger with XYZ Federal Credit Union and ABC Credit Union. We also considered requesting a modification in our field of membership, but no viable common bond could be defined.

Jane Smith has been appointed as liquidating agent and delegated full authority to complete the liquidation. Ms. Smith is developing a liquidation plan that will be forwarded to your office next week. We are also proceeding to obtain the membership vote, and you will be notified of the results.

I am enclosing financial statements as of May 31, 19-- for your records.

Sincerely,

John Doe, Chairman
Board of Directors

enclosure

Sample Notice

NOTICE TO MEMBERS AND APPROVAL OF LIQUIDATION Sample Federal Credit Union

On June 29, 19--, the board of directors of Sample Federal Credit Union voted to present the question of voluntary liquidation to the membership. The board believes this action is necessary due to the upcoming plant closing and the absence of reasonable alternatives.

A SPECIAL MEETING OF THE MEMBERS WILL BE HELD AT 4:30 P.M. ON JULY 14, 19--, to discuss the question of liquidation. The meeting will be held in the company lunch room located in Building A next to the credit union office. Before the liquidation can proceed, approval by a majority of the members voting is necessary. You can vote in person at the special meeting or by completing and returning the attached ballot. If you vote by ballot, the ballot must be received by July 14, 19-- at 3:00 P.M.

As of June 29, 19--, and continuing throughout the liquidation process, normal credit union business will be limited to repayment of loans. New loans cannot be made, payments (deposits) on shares will not be accepted, and withdrawal of shares will not be permitted. It is anticipated that the liquidation process will be completed in about 6 months, and at that time the balance of your share account plus, if any surplus is available, your portion thereof, will be paid. Partial distributions of shares will be considered as funds become available. Since normal dividends are not paid during the liquidation process, you should consider authorizing the transfer of your share account to repay your loan.

Questions can be directed to Jane Smith, Liquidating Agent, at the credit union office.

Sam Smith, Secretary
Board of Directors

Sample Ballot

BALLOT

Each member can cast one vote on the question of liquidation. I hereby cast my vote as follows (mark one only):

_____ **AFFIRMATIVE** - I vote to liquidate the credit union.

_____ **NEGATIVE** - I vote AGAINST the liquidation of the credit union.

Signature

Name Printed

Account Number

Sample Notice to Borrowers

**Notice to Borrowers and Comakers
Sample Federal Credit Union**

If a loan to a credit union member is in arrears, the shares of the borrower and comaker(s) will be automatically applied to the loan balance and interest due. If the loan is current, payment of the borrower's and comaker's shares may be withheld until the loan is fully repaid.

It is generally to the borrower's advantage to authorize the transfer of shares to the outstanding loan balance since this reduces the total amount of interest due and payable during the life of the loan. Since dividends will no longer accrue on shares and any gain to be distributed to the members at the time of final distribution will be computed on the share balance at commencement of liquidation, the member will realize a distinct saving by granting authority for the transfer of shares to the loan balance and interest due.

AUTHORIZATION FOR SHARE TRANSFER TO LOANS AND INTEREST

I hereby authorize payment of my shares in full or in part to the Sample Federal Credit Union, or any other holder of my note in due course, as full or partial settlement of my obligation to the credit union as a borrower.

Signature

Name Printed

Account Number

Sample Letter - Second Regional Director Notification

July 16, 19--

Dean Smith, Regional Director
National Credit Union Administration
123 South Florida Avenue
Any City, Any State 00000

Dear Mr. Smith:

As required by Section 710.3(e) of the NCUA Rules and Regulations this letter is to notify you of the results of the membership meeting. On July 14, 19--, a special membership meeting was held to obtain membership approval for voluntary liquidation.

A quorum of members as defined in the Bylaws was present. A majority of the members voting in person or by ballot approved the liquidation. Accordingly we are proceeding with the liquidation.

A copy of the liquidation plan is enclosed.

Sincerely,

Jane Smith
Liquidating Agent

enclosure

Sample Member and Creditor Notice

NOTICE OF LIQUIDATION

Notice is hereby given that Sample Federal Credit Union, 123 Main Street, Any Town, Any State, is in process of liquidation. All members having accounts in the credit union and all creditors or persons having any claim or demand against said credit union are required to present their claim, together with proof, to the following address:

Liquidating Agent
Sample Federal Credit Union
123 Main Street
Any Town, Any State 00000
(000) 000-0000

All creditor claims not filed by *(insert date 30 days from the liquidation date)* may be barred.

Jane Smith
Liquidating Agent

Section III - Conducting the Liquidation

Monitoring Solvency

The board or liquidating agent must conduct the liquidation in a manner that safeguards the interests of the members. In most voluntary liquidations the members will participate in a liquidating dividend if the assets are conserved by holding costs to a minimum. The financial condition must be monitored during liquidation. If it is evident that the credit union will not remain solvent during the course of liquidation, or if unforeseen conditions develop that may cause insolvency or bankruptcy, the regional director should be promptly contacted.

Insolvency is defined in Section 700(j)(1) of the NCUA Rules and Regulations. In the case of a liquidation, the board or liquidating agent must determine that the sale or collection of the assets will provide sufficient funds to pay the expenses of liquidation, to pay creditors, and pay the members at least par for their share holdings. Unless Regional Director approval is obtained, no asset can be sold at a price that would not provide sufficient funds to pay the shareholders at par.

Control of Expenses

With proper authorization, necessary expenses of operation shall continue to be paid. Expenses should be held to a minimum to conserve assets and provide the maximum return for the members.

Collection and/or Sale of Loans

Collection of outstanding loans is usually the most time consuming part of the liquidation process. Prompt and vigorous efforts should be made to collect the loans. All borrowers should be encouraged to accelerate their loan payments or to borrow elsewhere to repay their loans.

The board has the responsibility of realizing the greatest return to the shareholders without delay. A bulk sale of the loans will expedite the final distribution to the members. Other local credit unions or other financial institutions are usually the best potential loan purchasers. The regional director can provide a list of investors that also may be interested in purchasing all or a portion of the loans. Two or more

bids should be obtained. *If the bids will not produce sufficient funds (after the projected liquidation of the other assets and payment of liabilities and liquidation expenses) to pay the shareholders at par, no sale can be consummated without the approval of the regional director.*

The notes should be endorsed and signed in the name of the credit union. The endorsement should read, "This instrument is transferred without warranty and endorsed without recourse."

Investments

The liquidation of investments must be carefully planned. Investments with maturity dates beyond the projected final distribution will be redeemed or sold prior to maturity. If possible, excessive penalties for early redemption should be avoided. It may be possible to arrange for the waiver of penalties because of the liquidation status of the credit union. The sale of marketable securities should be timed to obtain the maximum market advantage. In most cases it is necessary to contact an investment broker to facilitate the sale of marketable securities.

While a primary goal of the liquidation is to convert assets to cash to fund partial and final distributions, there will be intervals where cash can be advantageously placed in short-term interest-bearing investments. The investments should be available on demand or on very short notice, so the cash flow matches the liquidation plan.

Credit Card Accounts

Credit card accounts are difficult to liquidate since the agreement with the borrower provides for revolving credit and the cards have an expiration date into the future. For these reasons every effort should be made to sell the credit card loans to another credit union or other financial institution that is in a position to provide revolving credit. Holders of credit cards should be promptly notified of any sale.

If a sale cannot be arranged and the credit card loans must be liquidated, the borrowers should be notified of the liquidation status of the credit union, that the credit extended under terms of the credit card agreement has been revoked, and the borrower should be requested to return the cards to the credit union. A follow-up letter should be sent to borrowers not responding to the notice. Items should be cleared for 20 days (or less) from the notification, and if possible, a block should be placed so charges will not be accepted after the 20-day notice period.

Due to the agreement with the credit card processor, it may not be possible to cancel the program on short notice. It may be necessary to "hot list" the cards of borrowers who fail to stop making charges. The process is expensive and should be used only in extreme cases.

Sale of Other Assets

Sales for all other assets must also be arranged. Office furniture and equipment can usually be sold through used furniture dealers. Several dealers should be contacted and bids obtained. Any real estate owned by the credit union is usually best sold using the services of a real estate agent. However, before listing real estate for sale, an appraisal should be obtained to provide proper pricing for the property.

The credit union may "own" assets that are not recorded on the balance sheet, such as, charged off loans, utility deposits, or obsolete equipment. These assets should also be sold or redeemed. In the event a sale cannot be arranged, the assets can be donated to charity. Receipts for donations should be retained as part of the liquidation records.

Sales to Insiders

Credit union officials, employees, and members of their families may be interested in purchasing assets of the credit union. While there is no specific prohibition, a sale of assets to an insider can provide an appearance of favorable treatment. If the price is less than "market", the sale could represent a breach of fiduciary responsibility. Any questions regarding the sale of credit union assets to officials, employees, and family members should be directed to the regional director.

Payment of Liabilities

All creditor claims should be promptly reviewed, and legitimate claims should be paid. Any disputed claims should be resolved. Liabilities incurred during the liquidation process should be paid in a timely manner. Payments to creditors take priority over payment of the members' shares. If only limited funds are available, the debts of the credit union are paid in the following order of priority:

- Expenses of liquidation.

- Taxes due to federal, state, or local authorities.
- Fees that are due or that become due to the National Credit Union Administration.
- Debts owed to secured creditors.
- Debts owed to unsecured creditors.

Recurring Payments/Payroll Deductions

Some credit unions receive recurring payments electronically for the benefit of individual members. Social security or other retirement benefits are the most common type of recurring payments. In addition, payroll deductions are received to be credited to shares and/or loan payments.

When the board votes to present the question of liquidation to the members, funds can no longer be applied to share accounts. These funds should be placed into Accounts Payable and paid to the members except in cases where members elect to apply the funds as loan payments.

Action should be taken to terminate payments intended for shares. In the case of recurring payments it is usually necessary for the member to contact the payer and institute action to have the funds transferred to another financial institution. For payroll deductions, credit union personnel can normally contact the employer and terminate the savings deductions without action by each individual member.

Share Drafts

Special consideration must be given to members with share draft accounts since a lengthy period of inaccessibility to the funds could cause personal hardships. Members with share draft accounts should be notified to discontinue using these accounts. A sample notification letter is included in this Section on page III-9. The notice should explain that outstanding items will be cleared for 15 days, and after that time all items will be returned unpaid. Deposits to shares, including share draft accounts, cannot be accepted after the board votes to present the question of liquidation to the members. Also, any overdraft protection that represents a loan advance or transfer from another share account must be terminated.

Liquidity must be sufficient to fund the withdrawal of the majority of the funds in share draft accounts. In fact, the members should be encouraged to withdraw all funds in these accounts. When the members approve the liquidation, if sufficient liquidity is available, the board or liquidating agent may disburse funds remaining in share draft accounts. The liquidation plan should address the payout of share draft accounts.

The share draft processor must be notified of the exact date that share drafts cannot be processed.

IRA or Keogh Accounts

The shareholders must be notified promptly so actions can be taken by the members to conform to the provision of Individual Retirement Account (IRA) or Keogh regulations. Although a credit union may use an IRA agreement naming a successor trustee or custodian, no disbursement of these shares can be made unless certain procedures are followed. Basically, the members must make arrangements with another trustee or custodian so the funds can be rolled over. If these arrangements are not made the funds are paid to the members and the Internal Revenue Service must be notified of an early distribution. A recommended letter and form for completion by the members are included at the end of this section.

An IRA cannot serve as collateral for loans or be frozen against payment of the loan balances. The IRA balance must be paid in full to the member or a new trustee or custodian named by the member.

Partial Distributions

The liquidation plan may call for partial distributions. With the approval of the regional director, partial distributions can be authorized by the board or liquidating agent if sufficient cash flow is available, and if the loss of investment income will not be detrimental to the ability to pay liquidation expenses. Since the members do not have access to their shareholdings during the liquidation period, partial distributions are beneficial to the members.

Distributions are based on a pro rata portion of the shares as of the liquidation date (or the date of last share withdrawal). In most cases partial distributions should be at least 25 percent of the share balances as of the liquidation date. Smaller distributions result in small checks that are not cashed. For this reason, members with \$25 or less in shares can be excluded from partial distributions. They will receive their funds at final

distribution. If a member's shares are specifically pledged as collateral on a loan as maker or comaker, the shares can be excluded from the partial distribution to the extent of the pledge. In the case of a comaker, any shares pledged by the maker are considered before determining the liability of the comaker. Also, IRA and Keogh accounts are excluded from partial distributions. These accounts must be paid in full to the member or the new trustee or custodian as part of the final distribution.

Before authorizing a partial distribution the following factors should be considered by the board or liquidating agent, and a summary of the information should be presented to the regional director when approval for the distribution is requested:

- The estimated cash amount of the distribution. If a "normal" partial distribution is 25 percent of shares, the cash requirement for the partial distribution would be 25 percent of shares less 25 percent of pledged shares, less 25 percent of shares in accounts of \$25 or less, and less IRA and Keogh accounts.

- The amount of cash available.

- An estimate of the impact of the loss investment income on the planned disbursement.

- An estimate of time remaining until the final distribution can be made.

- The status of remaining liabilities.

- The status of the liquidation of the remaining non-cash assets.

Financial Assistance

Section 208 of the Federal Credit Union Act provides authority for NCUA to grant special financial assistance from the NCUSIF. This special assistance may be used to facilitate a voluntary liquidation by the purchase of loans or other assets, by the establishment of an account in the liquidating credit union, or by the guarantee on the sale of assets. However, this assistance is used only as a last resort after other avenues have not resulted in an expedient liquidation. Also, special assistance is not approved to facilitate the payment of a liquidating dividend. Additional information can be obtained from the regional director.

Checklist Conducting the Liquidation

TASK	RESPONSIBLE OFFICIAL	COMPLETION DATE
Obtain bids for loans, complete sale of loans.	Liquidating Agent	
Sell or redeem investments that mature beyond the projected final distribution.	Liquidating Agent	
Sell or cancel credit card accounts.	Liquidating Agent	
Sell other assets.	Liquidating Agent	
Pay liabilities.	Liquidating Agent	
Cancel recurring payments and payroll deductions not directed to loan payments.	Liquidating Agent	
Notify share draft account holders, stop processing share drafts.	Liquidating Agent	
Notify holders of IRAs and Keogh accounts, obtain instructions for disbursement of funds.	Liquidating Agent	
Prepare schedule to support any partial distribution, obtain regional director approval, support request for approval with most recent financial statement.	Liquidating Agent	

Sample Letter - Credit Card Holders

July 15, 19--

Credit Card Member
456 South Street
Any City, Any State 00000

Dear Ms. Member:

As the liquidating agent for Sample Federal Credit Union, I am winding up the affairs of the credit union. In order to promptly conclude the affairs of the credit union, all credit cards have been revoked. **USE OF THESE CARDS SHOULD BE DISCONTINUED IMMEDIATELY.** All cards should be cut in half and returned in the enclosed postage paid envelope.

Continue to make your payments to the credit union. The interest rate of 15 percent provided for under the terms of your credit card agreement will be maintained. Your payments will be due on the 30th of each month, and your payment amount will remain the same.

Sincerely,

Jane Smith
Liquidating Agent

Enclosure

Sample Letter - Share Draft Accounts

July 1, 19--

Share Draft Accounts
789 South Street
Any City, Any State 00000

Dear Mr. Accounts:

On June 29, 1993, the board of directors of Sample Federal Credit Union voted to present the question of liquidation to the members. I have been appointed as the liquidating agent to wind up the affairs of the credit union. In order to promptly conclude the affairs of the credit union, share drafts should not be written after July 10, 19--. Also, your ATM card should not be used. All cards should be cut in half and returned in the enclosed envelope.

Any overdraft protection included with your share draft account is no longer available. Overdraft protection has been terminated as part of the liquidation process.

After allowing until July 16 for outstanding share drafts and ATM transactions to clear, remaining items will be returned unpaid.

Sincerely,

Jane Smith
Liquidating Agent

Enclosure

Sample Notice - IRA Accounts

**SHAREHOLDER NOTICE FOR
INDIVIDUAL RETIREMENT ACCOUNT
SAMPLE FEDERAL CREDIT UNION**

September 30, 19--

IRA Account Holder
234 Southeast Avenue
Any City, Any State 00000

Dear Mr. Holder:

Due to the liquidation of Sample Federal Credit Union you must make arrangements for the disbursement of your individual retirement account (IRA). We are preparing for the final distribution of assets to the shareholders within the next 90 days, and we must have your instructions for disbursing the IRA.

To avoid a tax penalty for the premature distribution of retirement funds, the law permits a tax-free transfer of the assets from your IRA to another individual retirement savings plan **once** in each calendar year. In order to qualify for this tax-free transfer, the amount you receive for your IRA must be placed in a new account (in another financial institution) **no later than 60 days after it is received.**

It is important that you complete, sign, and return the enclosed "Instructions for Payment of Individual Retirement Account".

Sincerely,

Jane Smith
Liquidating Agent

Enclosure

Sample IRA Instructions

INSTRUCTIONS FOR DISBURSEMENT OF IRA ACCOUNT

To: Sample Federal Credit Union

You are instructed to follow the instructions in the marked paragraph.

_____ Send the proceeds from my IRA share account to me at the address appearing on the records of the credit union. I understand that I have 60 days after receipt of these funds to place them in a new individual retirement savings account in order to qualify for a tax-free transfer of these funds, and this is the only such transfer I can make this calendar year.

_____ Send the proceeds from my IRA share account to the alternative trustee or custodian named in my IRA agreement. I will notify that institution to expect these funds.

Named institution: _____

_____ Send the proceeds from my IRA share account to the following institution. I will notify that institution to expect these funds.

Institution: _____

Signature

Date

Printed Name

Account Number

Schedule of Partial Distributions
Sample Federal Credit Union

Account Number	Name	Partial Distribution Amount	Partial Distribution Amount	Partial Distribution Amount	Total of Partial Distributions

Sample Letter - Third Regional Director Notification

August 31, 19--

Dean Smith, Regional Director
National Credit Union Administration
123 South Florida Avenue
Any City, Any State 00000

Dear Mr. Smith:

As required by Section 710.6(a) of the NCUA Rules and Regulations this letter is to request your approval of a partial distribution to the shareholders.

As outlined in the liquidation plan, we planned a 50 percent partial distribution at the mid point in the liquidation process. Our final distribution is still planned before November 30, and funds are available to fund a 50 percent distribution at this time. No distribution is planned on IRA accounts or on accounts of less than \$25. All liabilities have been paid.

This partial distribution will require cash of \$135,000, and funds in excess of \$150,000 are available in the checking account. The attached projections support that our ability to earn investment income will be sufficient to meet expenses after the requested partial distribution. Also, the credit union remains solvent as supported by the enclosed financial statements. All assets have been converted to cash except the credit union building and the credit card loans. A sale of the credit union building has been arranged (at book value) and is scheduled to close on October 15. The credit card accounts are being marketed, and a sale is expected by October 31.

Our liquidation remains on the schedule established in the liquidation plan.

Sincerely,

Jane Smith
Liquidating Agent

Enclosure

Section IV - Completing the Liquidation

Preparing for the Final Distribution

The following items must be completed in preparation for the final distribution to the shareholders:

- NCUSIF Capitalization Deposit - Request a refund of the NCUSIF Capitalization Deposit by writing to the regional director. The regional director will authorize the refund when it is determined that all other assets have been converted to cash and the liquidating agent is ready to proceed with the final distribution.

- Bank Service Charges - Arrangements must be made with the credit union's bank to pay any charges for processing the final distribution checks and clearing the account. The arrangements should be confirmed in writing. The charges should be computed and paid in advance so that all expense pertaining to the liquidation may be entered in the credit union records.

- Other Expenses - All remaining expenses should be paid. Expenses that cannot be paid such as salaries, postage, etc. related to the final distribution should be estimated. In addition, an allowance should be provided to the custodian for postage or future expenses. All expenses must be recorded on the records of the credit union prior to determining the amount to be distributed to the shareholders.

Closing the Books

When all assets have been converted to cash, or declared worthless, and all obligations have been paid, with the exception of the amounts due shareholders, all income and expense accounts shall be closed into the Undivided Earnings account. The balance in the Regular Reserve account shall be closed into the Undivided Earnings account. The only General Ledger accounts having balances at this time will be Cash, Shares, and Undivided Earnings.

Calculating and Recording the Liquidating Dividend

The liquidating dividend is based on the members' share balances on the day the board voted to present the question of liquidation to the members (commencement

date), or in cases involving share draft accounts the later of, the day share draft clearings were discontinued or the day share draft accounts were closed.

The balance in the Undivided Earnings account should be divided by the total amount of shareholdings at commencement of liquidation (or after share drafts were discontinued as discussed above) to determine the percentage of net gain to the shareholders. The balance in each individual account as of the commencement date (or after share drafts were discontinued) will be multiplied by this percentage to determine the amount to be added as a liquidating dividend.

The posting of the liquidating dividend should be documented with a schedule showing the share balance in each account at commencement, any reductions due to transfers to loans, any reductions due to share draft clearings, any reductions due to partial distributions, the amount of the liquidating dividend, and the amount paid to each shareholder as a final distribution. A sample of this schedule is included at the end of this section on page IV-7.

An entry will be made transferring the amount of the liquidating dividend from the Undivided Earnings account to Shares. The detail of the liquidating dividend will be posted to the Individual Share Ledgers.

Distribution of Assets

Promptly after the pro rata distribution to members has been computed, prepare checks for the amounts to be distributed to each member. Mail checks to the members at their last known address or hand to them in person.

The regional director will be notified in writing within 3 days when the final distribution of assets to the members is started.

Unclaimed Accounts

Each state has laws pertaining to unclaimed funds. These laws require unclaimed funds be transferred, trustee, or escheated to the state. In most cases the states make efforts to locate the owners of the abandoned property.

The liquidating agent should contact the appropriate state office to obtain information and forms. Unclaimed share accounts, unpaid creditor claims, and unpaid claims of members or creditors who failed to cash their final distribution checks shall

be transferred, trustee, or escheated in accordance with the laws of the state in which the member or creditor resides. A cashier's check or money order should be purchased to transfer the funds to the state.

A record will be maintained with the records of the credit union of the accounts transferred, trustee, or escheated. Normally a copy of the report filed with the state will be an adequate record. In addition, the transfer will be noted on the schedule of the distribution to members and the Individual Share Ledger.

Closing Checking Account

After the unclaimed accounts are transferred to the state no additional checks should be processed through the credit union's checking account. Due to "rounding" on the calculation of the liquidating dividend normally a small balance will remain in the account. The small balance should be closed by issuing a check to the liquidating agent or the records custodian. This remaining balance should cover the cost of storing the credit union records and responding to member and creditor inquiries.

The accounting entry closing the checking account should charge the Undivided Earnings account. After this entry is posted all General Ledger accounts should equal zero.

Final Reports

Within 120 days after the commencement of the final distribution of assets, a duly executed Certificate of Dissolution and Liquidation shall be filed with the regional director. An example of the certificate is included at the end of this section on page IV-9.

All final employer tax reports and IRS 1099 forms should be filed. In addition, if the credit union had a retirement program, the trustee or custodian must file the final reports to eliminate the program.

Retention of Records

The board or the liquidating agent shall appoint a custodian for the credit union's records that will be retained after the final distribution of assets. All records necessary to support that creditors were paid and the assets were equitably distributed

shall be retained by the custodian for 5 years following the date of charter cancellation. At least the following records will be transferred to the custodian to be stored for 5 years:

- Journal and Cash Record;
- General Ledger;
- Individual Share and Loan Ledgers;
- Bank statements and canceled checks, cash received, cash disbursed, and journal vouchers for the period beginning 3 years prior to liquidation;
- Copies of tax reports and 1099s for the period beginning 3 years prior to liquidation;
- Minutes of membership and board of directors meetings; and
- Schedule of Partial Distributions, the Schedule of Distribution to Members, and a listing of unclaimed items transferred to the state.

The regional director will be notified of the name and address of the custodian of the records. Unless there are specific reasons for further retention, the records may be destroyed after 5 years from the charter cancellation date.

Inquiries After Liquidation

It will be the responsibility of the custodian to respond to inquiries after liquidation. Most inquiries will relate to share accounts and tax information. The inquiries relating to loans will normally be referred to the purchaser of the loans.

Checklist Completing the Liquidation

TASK	RESPONSIBLE OFFICIAL	COMPLETION DATE
Request refund of the NCUSIF capital-ization deposit. Include most recent financial statement.	Liquidating Agent	
Pay bank charges for final processing, pay all remaining expenses.	Liquidating Agent	
Close the books.	Liquidating Agent	
Calculate and record liquidating dividend.	Liquidating Agent	
Notify regional director of the final distribution.	Liquidating Agent	
Transfer unclaimed accounts to the state.	Liquidating Agent	
Close checking account.	Liquidating Agent	
File Certificate of Dissolution and Liquidation with regional director.	Liquidating Agent	
File final tax reports and 1099 forms.	Liquidating Agent	
Appoint custodian for the records.	Liquidating Agent or Board	

Sample Letter - Request for Capitalization Deposit

October 20, 19--

Dean Smith, Regional Director
National Credit Union Administration
123 South Florida Avenue
Any City, Any State 00000

Dear Mr. Smith:

We are making final arrangements for the final distribution to the members. Please consider this letter as a request for a refund of the Share Insurance Fund capitalization deposit.

I am enclosing financial statements as of September 30, 19--.

Sincerely,

Jane Smith
Liquidating Agent

Enclosure

Sample Letter - Fourth Regional Director Notification

November 10, 19--

Dean Smith, Regional Director
National Credit Union Administration
123 South Florida Avenue
Any City, Any State 00000

Dear Mr. Smith:

As required by Section 710.6(e) of the NCUA Rules and Regulations, this letter is to notify you that the final distribution to the members has started.

Checks were mailed yesterday. The checks should clear by early December, and at that time unclaimed items will be transferred to the state.

Sincerely,

Jane Smith
Liquidating Agent

Sample Certificate

CERTIFICATE OF DISSOLUTION AND LIQUIDATION

I, Jane Smith, having been appointed on June 30, 19--, as agent on behalf of the board of directors in the liquidation of the Sample Federal Credit Union of Any City, Any State in accordance with Section 710.2(b) of the NCUA Rules and Regulations, and being duly sworn, hereby certify that:

1. After notice was provided as required by Article V of the Federal Credit Union Bylaws, a membership meeting was held on July 14, 19--. A quorum was present at the meeting. A majority of the members voting at the meeting or by ballot approved the liquidation.
2. The liquidation has been completed and an equitable distribution has been made in accordance with the provisions of Part 710 of the NCUA Rules and Regulations.
3. Shares or other accounts not claimed have been transferred, trustee, or escheated to the proper state.
4. All cash accounts have been closed.
5. Jim Johnson has been appointed as custodian of the records. All records of the Sample Federal Credit Union necessary to establish that creditors were paid and that assets were equitably distributed to the members will be retained by the custodian for a period of 5 years following the cancellation of the charter. Inquiries can be directed to:

Jim Johnson, Custodian of Records
Sample Federal Credit Union
6677 Southwest Drive
Any City, Any State 00000
Telephone - (000) 000-0000

Liquidating Agent

Subscribed and sworn to before me this _____ day of _____,
19____. My commission expires _____, 19____.