



OCTFCU

We Put Educators First.

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August 28, 2006

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

Re: Comments on Proposed Rule Part 708a

Dear Ms. Rupp:

Thank you for the opportunity to comment on the Agency's proposed changes to Part 708a, Conversion of Insured Credit Unions to Mutual Savings Banks. Orange County Teachers FCU (OCTFCU) agrees with and supports the proposed rule's objectives, that directors and officers must uphold their fiduciary duty to act in the best interests of the Members and that full and fair disclosures be provided to credit union Members when considering a possible conversion.

OCTFCU has the following comments on the proposed changes.

708a.3 – Advance Notice of Board Meeting to Consider Conversion Proposal

While we agree that giving the Membership as much advance notice as possible is important, providing the Board an opportunity to properly deliberate their action and not be put in a position of prematurely raising issues is also a consideration. If the board did know for a fact, 30 days prior to taking action that a positive vote on this issue was certain, clearly a notice should be sent to the Membership. However, it appears to us that until formal action is taken, the conclusion cannot be certain. Early notice could raise questions by the Members, which were still being deliberated. Because we firmly believe that the highest priority must be the Membership, our initial reaction was favorable to this provision in the proposal; however, given the above factors, we believe that a more appropriate requirement would be that the Board inform the Membership within a very short period of time – perhaps 5-7 days after the decision is made rather than while the issue is being considered.

We do agree that public notice after the Board's decision to convert should be required. This notice, as the notice to the Membership, should be done shortly following the board's decision. It would provide another source to ensure the Membership is made aware, but more importantly it would serve as notice to potential Members and interested parties in the community. The methods of communication proposed appear to be appropriate from our standpoint.

We believe the delivery methods proposed (newspaper, credit union offices, and web site) are appropriate. We suggest that the credit union have the option of utilizing additional delivery methods, such as statement stuffers, direct mail, e-mail messages, etc. This option should be in addition to the required delivery methods proposed. We believe these optional, additional delivery methods provide improved disclosure to the Members.

708a.4(a) – Disclosures and Communications to Members – 30-Day Ballot

We agree with the requirements to provide a 90-, 60- and a 30-day written notice of the credit union's intent to convert and that the ballot be included only with the 30-day notice. We believe this is beneficial as it results in Members receiving adequate notice and information prior to casting their ballot and it eliminates the possibility of Members voting prior to having all issues aired.

708a.4(d) – Disclosures and Communications to Members – Boxed Disclosures

Providing the Membership with full and fair disclosure of the likely implications of the conversion is critical. Requiring that certain possibilities be disclosed, even though they may not apply to the specific credit union in question, can cause concern that it may have a chilling effect even in instances where it may be in the best interest of the Membership to convert their charter. However, the fact that the board and management have full opportunity to provide information to the contrary is sufficient to overcome the concerns that might be raised with respect to the three "boxed disclosures." Furthermore, the disclosures are supported by historic data and do contain the fact that these are potential outcomes, not necessarily true in every case. The combination of these factors is sufficient, in our opinion, to require such "boxed disclosures."

708a.4(f) – Disclosures and Communications to Members – Member-to-Member Contact

We agree that Member-to-Member contact is appropriate as it allows issues to be aired by both sides, proponents and opponents. We also agree that the credit union needs to control the mailing of a Member's conversion-related materials in order to protect the privacy of all Members.

The proposed rule allows a dissenting Member to determine the delivery method, mail or e-mail. We would further suggest that the credit union be required to certify in writing to the requesting Member that the delivery of the materials took place. The certification should contain a statement of the date delivery was made, method of the delivery, number of Members notified by mail, and number of Members notified by e-mail (if applicable).

708a.6(b) – Membership Approval of a Proposal to Convert – Voting Record Date

Providing a safeguard to the Members, which will reasonably avoid “professional depositors” from not only influencing the conversion decision but also potentially benefiting from it is an appropriate objective. However, excluding Members who joined as far back as eight months prior to the actual Membership vote seems to be too long. We note that the OTS rule governing conversions from mutual savings banks to stock form sets voter eligibility at not more than 60 days nor less than 20 days before the depositor meeting. We believe that perhaps 30 to 60 days instead of the 120 days proposed may be more appropriate.

708a.13(d) – Voting Guidelines – Voting Incentives

We do not agree with offering incentives to vote. The proposed rule maintains the requirement of an approval by a majority of the Members who vote on the proposal (708a.6(b)). Therefore, we believe that an incentive is not necessary, as the credit union does not have to obtain a minimum number of votes. Incentives seem to encourage supporting management’s recommendation. Even when it is made clear that for and against votes will have an equal chance of winning, some Members still believe that voting for the recommendation increases their odds. This has been shown to be the case with subscription and other give-aways.

In closing, the proposal includes several changes that benefit credit union Members and we welcome those amendments. At the same time, we believe it is important to protect the credit union’s option to convert if, in fact, that is in the best interest of and desired by the Membership.

Thank you again for the opportunity to express our views on the proposed changes to the conversion rules.

Sincerely,



Rudy Hanley,
President/CEO

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cc: OCTFCU Board of Directors
Jose Lara, SVP, Organizational Planning & Development
Sharon Lindeman, Director, Audit