



Credit Union National Association

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June 13, 2007

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

Re: NCUA's Proposed Changes to 12 CFR  
708b, Disclosure of Merger Related  
Compensation

Dear Ms. Rupp:

This letter represents the views of the Credit Union National Association on the agency's proposal to amend 12 CFR 708b to require all federally insured credit unions to disclose a "material" increase in direct or indirect compensation or benefits offered to board members or the senior staff of a credit union by another credit union as part of a merger between the two institutions. By way of background, CUNA represents approximately 90 percent of our nation's 8,600 state and federal credit unions, which serve nearly 87 million members.

CUNA is strongly opposed to this proposal and urges the agency not to proceed with it as drafted. Our position is based on extensive discussions with the CUNA Federal Credit Union Subcommittee and the CUNA Governmental Affairs Committee, and on comments we have received from leagues and credit unions. Our primary concerns with the proposal center on the following.

In our view, NCUA has not provided adequate substantiation to credit unions as to why the rule is necessary or sufficiently explained why the 15% or \$10,000 figures are the appropriate levels for disclosure. We seriously question whether the low figures NCUA has chosen are indeed "material" or would entice a credit union official to make a choice that was not in members' best interests. Without further explanation from NCUA, it unclear on what basis the agency could arrive at the appropriate level for disclosure.



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Also, if adopted, the proposal could have a chilling effect on mergers, which are often positive transactions that benefit credit union members. For example, according to the Supplementary Information accompanying the proposed rule, not only would NCUA review “material” compensation or benefits in the context of the merger proposal submitted to the agency, it could on a case-by-case basis request further details about the compensation (72 FR 20068). This seems very open-ended, leading some to conclude that NCUA plans to become more heavily involved in the details of merger transactions, which should be a business judgment of the affected boards, acting in concert with their fiduciary duties to their credit unions’ members.

In addition, the proposal would single-out credit union documents regarding merger arrangements for a special review procedure under which individual members could access records relating to the compensation. The proposal does not explain why such a separate procedure is necessary nor does it take into consideration the burden such a procedure could impose, particularly on a credit union with a large number of members.

Also, the proposal focuses on one confined aspect of the merger process rather than including merger compensation in a broader review of the multiplicity of issues relating to credit union business combinations, such as the overall value of the merger to the members and protecting against abuses in hostile takeover attempts. We see no reason for NCUA to act on this matter separately and out of context with related issues.

If the NCUA Board determines that its concerns about merger compensation are sufficient to justify a new regulation – which the Supplementary Information does not currently support -- we urge the agency to redraft the proposal to reflect reasonable concerns such as the ones we have addressed, and to invite further comments from the credit union system.

Thank you for the opportunity to express our views on the proposal.

Sincerely,

Mary Mitchell Dunn  
CUNA Deputy General Counsel and  
Senior Vice President

Cc: CUNA Governmental Affairs Committee Chairman Tom Dorety  
CUNA Federal Credit Union Subcommittee Chairman Bill Raker