

Jordan, Sheron

From: _Regulatory Comments
Sent: Tuesday, June 26, 2007 8:12 AM
To: Jordan, Sheron
Subject: FW: Founders Federal Comments on Proposed Rule Part 708b (Disclosure of Merger Related Compensation)

From: LARRY HIGGINS [mailto:LARRY.HIGGINS@foundersfcu.com]
Sent: Monday, June 25, 2007 3:17 PM
To: _Regulatory Comments
Subject: Founders Federal Comments on Proposed Rule Part 708b (Disclosure of Merger Related Compensation)

Dear Ms. Rupp;

The trying economic times of the last few years have created a significant decrease in the number of federally chartered credit unions. The vast proportion of this decrease has been as a result of mergers. These mergers, with notable exceptions, have proceeded with little opposition and dissatisfaction. There now seems to be a push to improve a process that is already working very well. We believe that further regulation of mergers between federally chartered credit unions is not necessary and only serves to allow for additional individuals to second-guess management decisions made by the respective Boards of Directors. The merger process is already very transparent, both to the NCUA and to the memberships of the two credit unions.

The Proposed Rule seeks input regarding issues that have arisen or could arise in the future in an attempted "hostile takeover" of a federal credit union or issues that could arise when there are multiple suitors for a credit union and one, or more, of the credit unions sinks to unethical behavior to attempt to influence senior management officials at the potential merger partner. While these are important issues, the vast majority of mergers are willing mergers between the parties and arise for a number of common reasons. These reasons include, but are not limited to, the economic environment for many smaller credit unions. Smaller credit unions are suffering difficulties in competing with other financial institutions because of issues such as: loss of a sole sponsor; retiring manager who cannot be replaced at a salary the credit union can afford; an inability to offer competitive products and services; and finally, rapidly increasing operating costs. In the situations previously described, merger with another credit union is often the best option for the smaller credit union. In our opinion, the merger process is carefully scrutinized by the NCUA under its current guidelines. We are unsure why additional formalization of this process is necessary. If the NCUA intends to go forward and create a final rule, Founders Federal Credit Union would like to offer the following comments.

The Proposed Rule offers members additional rights to review documents regarding merger-related compensation that are less burdensome than the rules regarding member access to Senior Management compensation generally. The Proposed Rule would seem to allow a small group of individuals opposed to the merger the opportunity to gain access to information to which they would not normally have access. This access would only serve to make the merger process potentially more arduous than it currently is and would seem to grant more rights to members of credit unions involved in mergers than to members of credit unions generally. Additionally, the timing requirement of providing access to this information within one day does not seem reasonable. The standards for access to this information and the timing thereof should parallel those of member access generally. A process already exists for any group of members, with the appropriate number of signatures, to review all of this information, therefore it is not clear why the process should be modified in a merger situation. Also, in the specific situation of a sole sponsor credit union that has lost its sponsor because of economic issues, it could be problematic providing information about a credit union manager getting any type of increase in compensation to a group of employees who may no longer have a job.

Finally, while a review of any increases in compensation of management officials is important to preserve the integrity of the merger process, the definition of materiality seems a bit arbitrary. Additionally, if any such

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increases have already been approved by the surviving credit union's Board of Director's and have been provided to the NCUA, this Proposed Rule would apparently allow any member of the non-surviving credit union to review salary changes for any member of management of the non-surviving credit union. It seems arbitrary to have one rule for access to management compensation for a federal credit union, and another far more lenient rule for member access to management compensation for a federal credit union involved in a merger.

Sincerely,

Larry Higgins
Senior Vice President & General Counsel
Founders Federal Credit Union