

National Credit Union Administration
Supporting Statement

Bank Conversions and Mergers, 12 CFR Part 708a
OMB No. 3133-0182

The NCUA is proposing to amend the procedure a federal credit union (FCU) must follow to voluntarily merge with another credit union. The notice of proposed rulemaking (NPRM) proposes to clarify the contents and format of the member notice; require merging FCUs to disclose all merger-related financial arrangements for covered persons, increase the minimum member notice period, and provide procedures to allow member-to-member communications. Revisions are being made to currently approved information collections 3133-0024 (*12 CFR 708b, Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status*) and 3133-0182, to capture changes to the information collection requirements associated with this NPRM.

A. Justification

1. Circumstances that make the collection of information necessary.

Part 708a covers the conversion of federally insured credit unions (credit unions) to mutual savings banks (MSBs) and mergers of credit unions into both mutual and stock banks (banks). Part 708a is organized into two subparts:

- (1) Subpart A, Conversion of Insured Credit Unions to Mutual Savings Banks (§§708a.101 through 708a.113) (Subpart A); and
- (2) Subpart C, Merger of Insured Credit Unions into Banks (§§708a.301 through 708a.312) (Subpart C).¹

Part 708a requires credit unions that intend to convert to MSBs or merge into banks to provide notice and disclosure of their intent to convert or merge to their members and NCUA, and to conduct a membership vote. In addition, Subpart C requires credit unions that intend to merge into banks to determine the merger value of the credit union. Part 708a requires credit unions to provide additional information to NCUA at various points in the conversion or merger process.

These requirements are authorized under the Federal Credit Union Act, 12 U.S.C. §1785(b) and (c). They are also necessary to ensure safety and soundness in the credit union industry, and to protect the interests of credit union members in the charter conversion and merger contexts. The Act also authorizes the NCUA Board to prescribe regulations governing these transactions. 12 U.S.C. §§1766(a) and 1789(a).

¹ Subpart B, a third subpart, is reserved.

Credit unions are required to comply with the following information collection requirements:

Subpart A - Conversion to MSB

1. Advance Notice of Intent to Convert. Section 708a.103(a) requires that a converting credit union prepare and publish an advance notice of intent to convert. (Disclosure requirement)
2. Solicitation and Review of Member Comments. Sections 708a.103(a) and (b) require that a converting credit union solicit (by publication of the advance notice of intent to convert) and review member comments. (Disclosure requirement)
3. Consideration and Approval of Proposal to Convert. Section 708a.103(c) requires that a majority of the converting credit union's directors properly consider and affirmatively approve a proposal to convert. (Recordkeeping requirement)
4. Notice of Intent to Convert to NCUA and to Members. Section 708a.105 requires that a converting credit union give notice to NCUA of its intent to convert accompanied by copies of a notice of meeting to members, ballot for the meeting of members to be held to vote on the conversion proposal, and any other written materials provided to members. The preparation of the notice, ballot, and other written materials that are provided to NCUA requires collection and preparation of numerous items prescribed in the regulations. (Reporting requirement)
5. Certification of Support. Section 708a.105(a)(2) requires that a converting credit union prepare a director's certification of support for the conversion proposal and provide it to NCUA. (Reporting requirement)
6. Notice to Members and Member Vote on Proposed Conversion. Sections 708a.104 and 708a.106 require that a converting credit union provide notices to its members and conduct a member vote on the proposed conversion. A converting credit union must prepare and mail to its members a notice of its intent to convert and a notice of meeting of members to vote on the conversion proposal. Members must be allowed to vote either by mail or in person at a meeting. The notice to members must be provided to members three times. A ballot must be included with the final notice. The preparation of the notices to members and ballot requires collection and preparation of numerous items prescribed in the regulations. (Disclosure requirement)
7. Member Communications. Section 708a.104(f) requires that, when a member of a converting credit union requests to communicate with other members, the converting credit union provide such communication to other members. Also, converting credit union must notify members using the "reply to" to notify members that the e-mail has been direct to an address other than the requesting member's and identify to whom the response was sent. (Disclosure requirement)

8. Certification of Member Vote Results. Section 708a.107 requires that a converting credit union certify the results of the member vote to NCUA. (Reporting requirement)

Subpart C – Merger into Bank

9. Merger Valuation. Section 708a.303(a) requires a merging credit union to obtain a merger valuation. (Recordkeeping requirement)
10. Advance Notice of Intent to Merge. Section 708a.303(b) requires, under certain circumstances, that a merging credit union prepare and publish an advance notice of intent to merge. (Disclosure requirement)
11. Solicitation and Review of Member Comments. Section 708a.303(c) requires that a merging credit union solicit (by publication of the advance notice of intent to merge) and review member comments. (Disclosure requirement)
12. Due Diligence, Consideration and Approval of Merger Proposal. Section 708a.303(d), and the associated due diligence requirement in §708a.304(d), require that a merging credit union conduct due diligence and the directors properly consider and affirmatively approve a proposal to merge. (Recordkeeping requirement)
13. Notice of Intent to Merge and Request for NCUA Authorization. Sections 708a.304(a) and (b) require that a merging credit union prepare and submit to NCUA a Notice of Intent to Merge and Request for NCUA Authorization (NIMRA). The preparation of the NIMRA, and the associated merger plan, requires collection and preparation of numerous items as specified in the regulations. (Reporting requirement)
14. Certification of Support for Merger. Section 708a.304(c) requires that a merging credit union prepare a director’s certification of support for the merger proposal and merger plan and provide it to NCUA. (Reporting requirement)
15. Notice to Members and Member Vote on Proposed Merger. Sections 708a.305 and 708a.306 require that a merging credit union prepare and mail a notice and ballot to members and conduct a member vote on the proposed merger. Members must be allowed to vote either by mail or in person at a meeting. The notice to members must be provided to members twice. A ballot must be included with the final notice. The preparation of the notices to members and ballot requires collection and preparation of numerous items prescribed in the regulations. (Disclosure requirement)
16. Member Communications. Section 708a.305(g) requires that when a member of a merging credit union requests to communicate with other members, the merging credit union provide such communication to other members. Also, converting credit union must notify members using the “reply to” to notify members that the e-mail has

been direct to an address other than the requesting member's and identify to whom the response was sent. (Disclosure requirement)

17. Certification of Member Vote Results. Section 708a.307 requires that a merging credit union certify the results of the member vote to NCUA. (Reporting requirement)

2. Purpose and Use of the Information

Subpart A – Conversion to MSB

The information is used by credit union members to determine if they wish to vote in favor of or in opposition to their credit union converting to an MSB. It is also used by NCUA to fulfill its statutory obligation to administer the membership vote.

Subpart C – Merger into Bank

The information is used by credit union directors to determine if they should adopt a plan of merger into a bank. The information is also used by credit union members to determine if they wish to vote in favor of or in opposition to their credit union merging into a bank. It is used by NCUA to fulfill its statutory responsibility to approve or disapprove the merger.

3. Consideration Given to Information Technology

The information collections in Part 708a do not use automated, electronic, or mechanical means of collecting the information to any large extent. Credit union conversions to MSBs and credit union mergers into banks occur so infrequently and affect so few credit unions that it is not efficient or cost effective to devote resources to putting into place highly sophisticated means of collection.

4. Efforts to Identify Duplication

No duplication is evident. The collection of the information is required only under the conversion and merger rules in Part 708a. There are no other related collections.

5. Effect on Small Entities

The burden on the credit union industry under Part 708a is minimal. It is projected that in any given year, no more than one credit union will convert its charter to an MSB and that no more than one credit union will merge into a bank. The overwhelming majority of converting and/or merging credit unions will not be small credit unions (defined as credit unions with less than \$50,000,000 in assets).

6. Consequences of Not Conducting Collection

Under both Subparts A and C, the information collection activity, at a maximum, is a one-time or occasional occurrence for each credit union. The Federal Credit Union Act (Act) mandates the requirements for conversions and mergers. The Act requires NCUA to issue

regulations applicable to such transactions. Without the information, NCUA could not fulfill its statutory obligation to administer the membership vote and to protect the interests of the members.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

There are no such special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2)

8. Consultations Outside the Agency

A notice of proposed rulemaking was published on June 8, 2017, at 82 FR 26605, soliciting comments on amendments to 12 CFR part 701, 708, and 708b, and the associated information collection requirements. Comments received in response to the proposed rule will be summarized and addressed in the final rule.

9. Payment or Gift to Respondents

There is no intent by NCUA to provide payment or gifts for information collected.

10. Assurance of Confidentiality

Converting credit unions and merging credit unions must identify themselves to NCUA per federal statute. NCUA does not reveal any information in a credit union's conversion or merger materials unless required under the Freedom of Information Act.

11. Questions of a Sensitive Nature

No questions of a sensitive nature.

12. Estimated Burden of Information Collection

Subpart A: In the last five years, five credit unions have engaged in MSB conversion transactions. NCUA estimates it takes an average of approximately 300 hours to comply with the notice and disclosure requirements of Subpart A. Of the 300 hours, NCUA estimates that respondents will spend approximately 50 hours on recordkeeping, 42 hours on reporting, and 208 hours on third-party disclosure. Based on NCUA's experience, NCUA estimates that in the future one credit union will engage in an MSB conversion transaction in any given year, so that the total annual collection burden is estimated to be approximately 300 hours. Labor cost estimate: 1 respondent x 300 hours x \$40/hr. = \$12,000. The labor cost estimate (\$40) is based on the average hourly wage for senior, mid-level, administrative, and clerical credit union employees according to call report data.

Subpart C: In the last five years, no credit union has engaged in a bank merger transaction. If a credit union were to engage in a bank merger transaction in the future, NCUA estimates it will take an average of approximately 410 hours to comply with the merger

valuation, notice, and disclosure requirements of Subpart C. Of the 410 hours, NCUA estimates that respondents will spend approximately 100 hours on recordkeeping, 102 hours on reporting, and 208 hours on third-party disclosure. NCUA estimates that in the future one credit union will engage in a bank merger transaction in any given year, so that the total annual collection burden is estimated to be approximately 410 hours. Labor cost estimate: 1 respondent x 410 hours x \$40/hr. = \$16,400. The labor cost estimate (\$40) is based on the average hourly wage for senior, mid-level, administrative, and clerical credit union employees according to call report data.

The aggregate estimated hour and labor cost burdens for each IC in Subparts A and C are summarized in the two tables below:

Subpart A

	Rule Section No.	Estimated Annual Burden Hours	Frequency	Labor Cost (Based on \$40 wage rate)
1	§708a.103(a)	3	1	\$ 120
2	§§708a.103(a) and (b)	4	1	160
3	§708a.103(c)	50	1	2,000
4	§708a.105	40	1	1,600
5	§708a.105(a)(2)	1	1	40
6	§§708a.104, 708a.106	200	1	8,000
7	§708a.104(f)	2	1	80
8	§708a.107	1	1	40
Total		301	1	\$12,040

Subpart C

	Rule Section No.	Estimated Annual Burden Hours	Frequency	Labor Cost (Based on \$40 wage rate)
9	§708a.303(a)	50	1	\$ 2,000
10	§708a.303(b)	3	1	120
11	§708a.303(c)	4	1	160
12	§§708a.303(d), 708a.304(d)	50	1	2,000
13	§§ 708a.304(a) and (b)	100	1	4,000
14	§708a.304(c)	1	1	40
15	§§708a.305, 708a.306	200	1	8,000
16	§708a.305(g)	2	1	80
17	§708a.307	1	1	40
Total		411	1	\$16,440

Grand Total: The total estimated annual hour burden under Subparts A and C of Part 708a is 712 hours (301 + 411 = 712). The total estimated labor cost burden is \$28,480, calculated as 711 hours X \$40/hour (\$12,040 + \$16,440 = \$28,480).

13. Estimated capital start-up and maintenance costs.

There are no capital start-up or operations and maintenance costs.

14. Costs to Federal Government

The total estimated cost to the federal government is approximately \$10,500. This includes approximately: (1) 75 hours of staff time at the central office level for collection and review of the information and communicating with the converting credit union under Subpart A, multiplied by a labor rate of \$60/hour (subtotal \$4,500); and (2) 100 hours of staff time at the central office level for collection and review of the information and communicating with the merging credit union under Subpart C, multiplied by a labor rate of \$60/hour (subtotal \$6,000). Total: \$4,500 + 6,000 = \$10,500.

The average hourly wage for an Analyst and Attorney is based on the midpoint of NCUA's pay scale and the "All Other" locality rate.

15. Changes in Burden

This is a revision associated with rulemaking. An increase of two hours is requested on Federal Credit Unions to clarify under §§ 708a.104(f)(3) and 708a.305(g)(3) of the member-to-member communication circumstances where a member wishes to reply to a member-to-member communication sent by e-mail. The converting credit union must notify members using the "rely" feature that the email has been directed to an address other than the requesting member's and identify to whom the response was sent.

16. Plans for Publication

The information will not be published.

17. Request non-display of the expiration date of the OMB control number.

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement

B. Collection of Information Employing Statistical Methods.

The collection does not employ statistical methods.