

National Credit Union Administration  
**SUPPORTING STATEMENT**

Mergers of Federally-Insured Credit Unions;  
Voluntary Termination or Conversion of Insured Status  
12 CFR Part 708b

**OMB No. 3133-0024**

Summary of Actions:

The NCUA published a final rule<sup>1</sup>, revising and clarifying the contents and format of the member notice; require merging credit unions to disclose certain merger-related financial arrangements for covered persons; increase the minimum member notice period; and provide a method for members and others to submit comments to the NCUA regarding the proposed merger.

The notice of proposed rulemaking (NPRM)<sup>2</sup> had proposed changes to §708b.106 that would amend the contents of the member notice for members of merging FCUs to require a detailed description of any merger related financial arrangements involving a covered person and additional information about the physical location of the merging and continuing credit unions. Additionally, NCUA had proposed to establish a mechanism for member-to-member communications and require a merging FCU to ensure that its members receive any member-to-member communication at least 15 calendar days before a vote. Should the merging FCU believe the member's request is not proper, it would submit the request to the regional director for determination. These proposed changes would have increased the information collection burden by 558 hours.

The promulgation of the final rule resulted in no change to the currently approved burden. The changes to the content of the members notice under §708b.106(b)(6) was determined not to have an impact on the currently allotted time of 7 hours for this third-party disclosure requirement. Other proposed increases to the information collection requirements related to the member-to-member communications proposed under 708b.106(d) and (f) have been eliminated. The NCUA will provide public accessible information about proposed merger transactions on the Agency's website with a section for members to comment.

**A. Justification**

**1. Circumstances that make the collection of information necessary.**

The Federal Credit Union Act requires written approval of the NCUA Board before one or more federally-insured credit unions merge or before a federally-insured credit union converts to nonfederal (private) share insurance or terminates federal share insurance and authorizes the NCUA Board to prescribe rules regarding mergers of federally-insured credit unions and changes in insured status (12 U.S.C. §§1752(7), 1766(a), 1785(b) and

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<sup>1</sup> June 28, 2018; 83 FR 30301

<sup>2</sup> June 8, 2017; 82 FR 26605

(c), 1786(a), (c), and (d), and 1789(a)). Part 708b of NCUA's rules sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, conversions from federal share insurance to nonfederal insurance, and federal share insurance terminations.

**2. Purpose and use of the information collected.**

Part 708b is designed to ensure NCUA has sufficient information to determine whether to approve a proposed merger, share insurance conversion, or share insurance termination. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance conversion, or insurance termination. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance conversion, or share insurance termination. The forms and formats necessary to comply with the requirements of part 708b are codified as subpart C.

**3. Use of information technology.**

Forms and formats for a credit union to use in communicating with its members and with NCUA about mergers and share insurance conversions and terminations are available electronically from NCUA's website. Forms are designed to be fillable. Credit unions may use electronic voting processes in obtaining the votes of their members on whether to approve a merger.

**4. Duplication of information.**

The collection of information is unique to the circumstances of each credit union. The information is self-generated and is not available from any other government agency or other source.

**5. Effect to reduce burden on small entities.**

This collection does not have a significant impact on a substantial number of small credit unions. For the most part, in a merger transaction a small credit union merges into a larger credit union. The larger credit union provides substantial assistance to the smaller credit union alleviating the economic burden. Share insurance conversion transactions are rare, four during the last year, and under Part 708b NCUA supplies the forms and format of the application. NCUA has not had a voluntary share insurance termination in decades.

**6. Consequences of not conducting the collection.**

If the information collection occurred less frequently, NCUA would be unable to determine whether to approve the proposed merger or share insurance conversion. Also, the credit union's members would not have sufficient information to evaluate the proposal.

**7. Inconsistencies with guidelines in 5 CFR §1320.5(d)(2).**

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

**8. Efforts to consult with persons outside the Agency.**

A Paperwork Reduction Act (PRA) notice was published in the preamble of the proposed rulemaking on June 8, 2017, at 82 FR 26606, providing an opportunity for the public to comment on the information collection requirements prescribed by this rule.

The final rule published June 28, 2018, at 83 FR 30301, which implements the proposed rule, with some changes. Comments received in response to the proposed rule are summarized and addressed in the preamble of the final rule. Comments with PRA concerns are set-out below.

*Member Comments on the Proposed Merger Transaction*

The proposed rule included provisions to facilitate member discussions about the merger transaction. These provisions, modelled on a similar requirement in the NCUA's rule governing credit union to bank conversions, would establish procedures to allow for member-to-member (MTM) communication in advance of a member vote. The MTM communication provision was the least popular part of the proposed rule, with 45 commenters opposing it. The most common objection was that the MTM communication process would delay the merger process, make mergers more complicated and costly, or discourage them entirely. Another frequently expressed fear was that disgruntled members, employees or competitors would use the MTM communication to convey misleading or inaccurate information. Other commenters opined that the MTM would expose the merging and continuing credit unions to reputation or litigation risk, raise the costs of mergers, and that members prefer alternate methods of receiving communications from other members. Finally, a few commenters objected to the NCUA's role in overseeing the MTM communication process and disagreed with the NCUA's observation that the proportion of votes in favor of merger is lower for ballots cast in person than for ballots cast by mail and, therefore, justifies the need for additional MTM communication.

Commenters suggested a variety of alternatives to the MTM provisions of the proposed rule. Two commenters suggested the merging credit union aggregate all member comments and either distribute one communication, or share the aggregated comments at or before the special meeting. Three commenters suggested holding an extra member meeting either during the voting period or before the voting period where members can obtain information on and discuss the merger, with a summary of the meeting posted online. Two commenters suggested that the NCUA create an online posting for each merger that allows members to submit comments. Further, one commenter requested public notice at the time a merger application is filed with the NCUA.

The Board believes many of the commenters' fears about the MTM communication provision are unlikely to materialize. The MTM communication provisions were modelled after those in the NCUA's part 708a regulation on credit union conversions to banks. Since the MTM communication provisions of part 708a took effect in early 2007, there have been eleven bank conversion attempts. An MTM communication occurred in fewer than half of these attempts. As most proposed bank conversions, which have a greater effect on member rights than a merger with another credit union, do not have an MTM communication, the Board finds it unlikely that many credit union merger proposals would evoke MTM communications.

In terms of the potential for abuse, the Board reminds commenters that the proposed rule provided for the NCUA to review MTM communications that merging credit unions find inaccurate or misleading. While this process would require time and effort on the NCUA's part, the Board expects this commitment would not be major because only a small proportion of credit union mergers would involve MTM communications. In summary, the Board believes many of the commenters' fears about the effects of the MTM communication provisions are exaggerated.

Nevertheless, the Board agrees that there may be an alternative way to accomplish the Board's goal of permitting members to dialogue about the proposed merger transaction while avoiding the features that made the MTM communication objectionable to commenters. The Board requested comments about all aspects of the proposed rule, which includes the MTM communication provision. The Board is now adopting the suggestions of two commenters who requested that the NCUA provide publicly accessible information about proposed merger transactions on the NCUA's website, with a section for member comments.

The final rule requires the member notice to include information about the NCUA website where merger information and member comments are posted, as well as the email and physical addresses where members may submit their comments for posting. Other regulators regularly provide similar information on their websites about pending transactions of regulated institutions. The Office of the Comptroller of the Currency (OCC), for example, posts a weekly listing of all applications it has received and actions it has taken. The actual applications for transactions such as mergers, are also posted on the OCC's website, along with a section for posting public comments.

The Board intends to establish a page on the NCUA's website similar to the OCC's, allowing credit union members and the public to view non-confidential portions of merger applications. The member notice will include a link to the website where the merger application and comments will be available, as well as information about how to submit a comment. Because the purpose of the website is to encourage dialogue between credit union members, the NCUA will post comments only from credit union members, as well as any responses from credit union management. Members must include their name and their city and state of residence, at a minimum, or their comment will not be posted. The NCUA will review comments before posting to ensure that the comments are appropriate and limited to the topic of the proposed merger.

For the reasons above, the merger applications website replaces the MTM communication provisions of the proposed rule.

**9. Payment or gifts to respondents.**

No payment or gift to respondents are made

**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 personally identifiable information (PII) is collected.

**12. Burden of information collection.**

The categories of burden for credit unions complying with Part 708b may include the following:

**Mergers:** Each year, there are approximately 214 mergers involving one or more federally-insured credit unions. NCUA estimates it will take the two merging credit unions approximately 35 hours between them to:

Mergers							
12 CFR	Information Collection	Burden Type	# Annual Respondents	# Responses per Respondent	Annual # Responses	Hours per Response	Total Annual Burden Hours
708b.103	Prepare the required merger documents	Reporting	214	1	214	15	3,210
708b.104	Collect and submit the required information to NCUA	Reporting	214	1	214	5	1,070
708b.206	Provide the required insurance disclosures in other communications that the credit union plans to send to its members if the merger involves a share insurance conversion	Third-party disclosure	214	1	214	2	428
708b.106, 708b.303(a) and (b)	Notify members of the proposed merger and send them the ballot	Third-party disclosure	214	1	214	7	1,498
708b.107, 708b.303(c)	Notify NCUA of the results of the merger vote	Reporting	214	1	214	1	214
708b.108	Notify NCUA of the merger's completion	Reporting	214	1	214	1	214
708b.101(e)	Notify members of the results of the merger and the possible effect on their insurance coverage	Third-party disclosure	214	1	214	4	856
TOTAL			214	7	1,498	5.00	7,490

In cases where the continuing credit union is privately insured, the required merger documents include those discussing the insurance conversion.

**Share Insurance Conversions:** Approximately four credit unions each year engage in share insurance conversions outside of the merger context. NCUA estimates there will be minimal burden in the form of collections of information, since NCUA provides forms and form language in the regulation.

Share Insurance Conversions							
12 CFR	Information Collection	Burden Type	# Annual Respondents	# Responses per Respondent	Annual # Responses	Hours per Response	Total Annual Burden Hours
708b.203(a), 708b.301(a)	Prepare the required conversion documents and submit the required information to NCUA	Reporting	4	1	4	4	16
708b.204(a), 708b.301(b) and (c)	Notify members of the proposed conversion and send them the ballot	Third-party disclosure	4	1	4	7	28
708b.206(b)	Provide the required insurance disclosures in other communication that the credit union plans to send its members	Third-party disclosure	4	1	4	2	8
708b.301(d)	Notify NCUA of the results of the conversion vote	Reporting	4	1	4	1	4
708b.204(c)	Provide members notice of conversion of insurance	Third-party disclosure	4	1	4	1	4
TOTAL			4	5	20	3	60

**Share Insurance Terminations:** Currently no credit unions have engaged in share insurance terminations. If one or more credit unions does engage in a voluntary termination of insurance in the future, NCUA estimates there will be minimal burden in the form of collections of information on those credit unions. One respondent and response is being used as a placeholder associated with this information collection activity. Since there has been no activity under this information collection, a zero labor cost is being reported.

Share Insurance Terminations							
12 CFR	Information Collection	Burden Type	# Annual Respondents	# Responses per Respondent	Annual # Responses	Hours per Response	Total Annual Burden Hours
708b.201(d)	Prepare the required termination documents and submit the required information to NCUA	Reporting	1	1	1	4	4
708b.202(a)	Notify the members of the proposed termination and send them to ballot	Third-party disclosure	1	1	1	4	4
708b.206(b)	Provide the required insurance disclosures in other communications that the credit union plans to send to its members	Reporting	1	1	1	2	2
708b.201(d) (2)	Notify NCUA of the results of the termination vote	Reporting	1	1	1	1	1
708b.202(c)	Provide members notice of termination of insurance	Third-party disclosure	1	1	1	1	1
TOTAL			1	5	5	2.4	12

Summary of Burden				
Information Collection Activity	Number of Respondents	Total Annual Responses per Respondent	Total Annual Burden Hours	Total Annual Labor Cost (based on \$35 hr.)
Mergers	214	1,498	7,490	\$262,150
Share Insurance Conversions	4	20	60	\$95
Share Insurance Terminations	1	1	12	\$0
Total	219	1,519	7,562	\$262,245

**13. Capital start-up or on-going operation and maintenance costs.**

On very rare occasions, a merging credit union may need to get outside accounting assistance with GAAP consolidated financials or legal assistance with Hart Scott Rodino Act compliance issues. Since this would be very rare, we cannot compute an average cost for this service.

**14. Annualized costs to the Federal government.**

The estimated total annualized cost to the Federal Government is approximately \$181,840, calculated as follows:

Mergers – NCUA spends an average of 15 employee-hours on pre- and post-merger processing and 4 employee-hours reviewing and supervising that processing. The wage rate for the processing is approximately \$40/hour, and the wage rate for review and supervision is approximately \$60/hour. The total NCUA cost for each merger is then 15 x \$40 (\$600) plus 4 x \$60 (\$240) = \$840. The aggregate annual cost for the 214 mergers is 214 x \$840, or \$179,760.

Share Insurance Conversions – The NCUA spends an average of 10 employee-hours on pre- and post-share insurance conversion processing and 2 employee-hours reviewing and supervising that processing. The wage rate for the processing is approximately \$40/hour, and the wage rate for review and supervision is approximately \$60/hour. The total NCUA cost for each share insurance conversion is then 10 x \$40 (\$400) plus 2 x \$60 (\$120) = \$520. The aggregate annual cost for the 4 share insurance conversions is 4 x \$520, or \$2,080.

**15. Change in Burden**

The proposed increase in burden of 558 hours under §708b.106 associated with member-to-member communications has been eliminated. NCUA will offer a website where members can post comments on proposed mergers. NCUA believes that the certification requirement under §708b.104 does not warrant an increase to the 5 hours already allotted a respondent to submit the merger proposal to NCUA.

Similarly, the requirement to supply two years of board meeting minutes will also not add to the burden since FICUs must maintain these minutes and make them available for examiners. This also applies to § 708b.106(b) where the final rule specifies the contents

of a member notice. This notice is to include the addition of the website where members can share comments and a targeted listing of branch locations of merging credit unions. This will not increase the 7 hours currently approved for a respondent to provide this notice.

**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 website at [www.reginfo.gov](http://www.reginfo.gov).

**18. Exceptions to the Certification for the Paperwork Reduction Act Submission**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.**

This collection does not employ statistical methods.