

Federal Credit Union Act Modernization

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Impetus

Organization

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Summary of Key Changes

Credit Union Structure

Federal credit unions may establish their own fiscal year.

Federal credit unions may have a supervisory committee or an audit committee.

Strike a requirement that Federal credit unions file information regarding loan officers.

Enhance flexibility of scheduling board meetings.

Remove some outdated responsibilities of Federal credit union boards of directors

Federal credit unions may expel members for just cause.

Balloting for conversions from state to federal charter and from federal to state charter may be conducted electronically.

Redline Changes

§1760. §110

Members' meetings.—The fiscal year of ~~all~~ each Federal credit unions shall end ~~December 31 on the date designated in its bylaws~~. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.

§1761. §111

Management.—(a) Board of directors, credit committee, and supervisory committee; election to board.—The management of a Federal credit union shall be by a board of directors, a supervisory ~~or~~ **audit** committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

(b) Membership on supervisory committee; names and addresses of officers and committee members.—The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A

record of the names and addresses of the executive officers, members of the supervisory committee, and credit committee, ~~and loan officers~~, shall be filed with the Administration within ten days after their election or appointment.

(c) Compensation.—No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.

§1761a. §112

Officers of the board.—At their first meeting after the annual meeting of the members, the directors shall elect from their number the board officers specified in the bylaws. Only one board officer may be compensated as an officer of the board and the bylaws shall specify such position as well as the specific duties of each of the board officers. The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 1761b(2) of this title.

§1761b. §113

Board of directors; meetings; powers and duties; executive committee; membership officers; membership application.—The board of directors shall meet ~~at least once a month~~ **no fewer than six times per annum** and shall have the general direction and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept. Among other things, the board of directors shall—

- (1) act upon applications for membership or appoint membership officers from among the members of the credit union, other than the board member paid as an officer, the financial board officer, any assistant to the paid officer of the board or to the financial officer, or any loan officer;
- (2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;
- (3) fill vacancies on the board of directors until successors elected at the next annual meeting have qualified;
- (4) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;
- (5) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;
- (6) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;
- ~~(7) determine the maximum number of shares, share certificates, and share draft accounts, and the classes of shares, share certificates, and share draft accounts;~~

- (8) subject to any limitations of this subchapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned and provided in lines of credit;
- (9) authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid by them during that dividend period;
- (10) if the bylaws so provide, appoint one or more loan officers and delegate to these officers the power to approve or disapprove loans, lines of credit, or advances from lines of credit;
- (11) establish the par value of the share;
- (12) subject to the limitations of this subchapter and the bylaws of the credit union, provide for the hiring and compensation of officers and employees;
- (13) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;
- (14) prescribe conditions and limitations for any committee which it appoints;
- ~~(15) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting together with such other related information as it or the bylaws require;~~
- (16) provide for the furnishing of the written reasons for any denial of a membership application to the applicant upon the written request of the applicant;
- (17) in the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer;
- (18) declare the dividend rate to be paid on shares, share certificates, and share draft accounts pursuant to the terms and conditions of section 1763 of this title;
- (19) establish and maintain a system of internal controls consistent with the regulations of the Board;
- (20) establish lending policies; and
- (21) do all other things that are necessary and proper to carry out all the purposes and powers of the Federal credit union, subject to regulations issued by the Board.

§1761c. §114

Credit committee.—(a) Members; meetings; lines of credit and approval of loans; delegation to loan officers.—If the bylaws provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which shall consist of an odd number of members of the credit

union, but which shall not include more than one loan officer. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 1757(5) of this title, approval of an application shall be by majority of the committee who are present at the meeting at which it is considered provided that a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

(b) Review and reversal of loan refusals; review by board in lieu of committee; limitation on disbursements by loan officers.—If the bylaws provide for a credit committee, all applications not approved by the loan officer shall be reviewed by the credit committee, and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision provided a majority of the full committee is present. If there is not a credit committee, a member shall have the right upon written request of review by the board of directors of a loan application which has been denied. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application has been approved by him in his capacity as a loan officer.

§1761d. §115

Supervisory committee; powers and duties; suspension of members; passbook.—The supervisory committee shall make or cause to be made an annual audit and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union; shall make or cause to be made such supplementary audits as it deems necessary or as may be ordered by the Board, and submit reports of the supplementary audits to the board of directors; may by a unanimous vote suspend any officer of the credit union or any member of the credit committee or of the board of directors, until the next members' meeting, which shall be held not less than seven or more than fourteen days after any such suspension, at which meeting any such suspension shall be acted upon by the members; and may call by a majority vote a special meeting of the members to consider any violations of this chapter, the charter, or the bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe or unauthorized. Any member of the supervisory committee may be suspended by a majority vote of the board of directors. The members shall decide, at a meeting held not less than seven nor more than fourteen days after any such suspension, whether the suspended committee member shall be removed from or restored to the supervisory committee. The supervisory committee shall cause the passbooks and accounts of the members to be verified with the records of the treasurer from time to time, and not less frequently than once every two years. As used in this section, the term "passbook" shall include any book, statement of account, or other record approved by the Board for use by Federal credit unions.

§1762. §116

Repealed by Pub. L. 105–219, title III, §301(g)(3), Aug. 7, 1998, 112 Stat. 931

§1763. §117

Dividends.—At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares, share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds \$5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.

§1764. §118

Expulsion and withdrawal.—(a) Expulsion by two-thirds vote.—Except as provided in subsection (b) of this section, a member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after opportunity has been given him to be heard.

(b) Policy and Actions of Boards of Directors of Federal Credit Unions. ---

(1) Expulsion based on nonparticipation **or for just cause**.—The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt and enforce a policy with respect to expulsion from membership based on **just cause, including disruption of credit union operations, or on nonparticipation by a member in the affairs of the credit union.** ~~In establishing its policy, the board should consider a member's failure to vote in annual credit union elections or failure to purchase shares from, obtain a loan from, or lend to the Federal credit union. If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than thirty days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.~~

(2) Notice of Policy to Members. – If a policy described in paragraph (1) is adopted, notice of the policy as adopted and the effective date of such policy shall be provided in a form or manner by which the credit union regularly communicates to members to –

(A) each existing member of the credit union, not later than 30 days prior to the effective date of such policy; and

(B) each new member prior to or upon applying for membership.

(c) Liability to credit union.—Withdrawal or expulsion of a member pursuant to either subsection (a) or (b) of this section shall not operate to relieve him from liability to the

Federal credit union. The amount to be paid a withdrawing or expelled member by a Federal credit union shall be determined and paid in a manner specified in the bylaws.

§1765. §119

Minors.—Shares may be issued in the name of a minor or in trust, subject to such conditions as may be prescribed by the bylaws. When shares are issued in trust, the name of the beneficiary shall be disclosed to the Federal credit union.

§1766. §120

Powers of Board.—(a) The Board may prescribe rules and regulations for the administration of this chapter (including, but not by way of limitation, the merger, consolidation, and dissolution of corporations organized under this chapter). Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this chapter.

(b)(1) The Board may suspend or revoke the charter of any Federal credit union, or place the same in involuntary liquidation and appoint a liquidating agent therefor, upon its finding that the organization is bankrupt or insolvent, or has violated any of the provisions of its charter, its bylaws, this chapter, or any regulations issued thereunder.

(2) The Board, through such persons as it shall designate, may examine any Federal credit union in voluntary liquidation and, upon its finding that such voluntary liquidation is not being conducted in an orderly or efficient manner or in the best interests of its members, may terminate such voluntary liquidation and place such organization in involuntary liquidation and appoint a liquidating agent therefor.

(3) Such liquidating agent shall have power and authority, subject to the control and supervision of the Board and under such rules and regulations as the Board may prescribe, (A) to receive and take possession of the books, records, assets, and property of every description of the Federal credit union in liquidation, to sell, enforce collection of, and liquidate all such assets and property, to compound all bad or doubtful debts, and to sue in his own name or in the name of the Federal credit union in liquidation, and defend such actions as may be brought against him as liquidating agent or against the Federal credit union; (B) to receive, examine, and pass upon all claims against the Federal credit union in liquidation, including claims of members on member accounts; (C) to make distribution and payment to creditors and members as their interests may appear; and (D) to execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.

(4) Subject to the control and supervision of the Board and under such rules and regulations as the Board may prescribe, the liquidating agent of a Federal credit union in involuntary liquidation shall (A) cause notice to be given to creditors and members to

present their claims and make legal proof thereof, which notice shall be published once a week in each of three successive weeks in a newspaper of general circulation in each county in which the Federal credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that whenever the aggregate book value of the assets and property of a Federal credit union in involuntary liquidation is less than \$1,000, unless the Board shall find that its books and records do not contain a true and accurate record of its liabilities he shall declare such Federal credit union in liquidation to be a “no publication” liquidation, and publication of notice to creditors and members shall not be required in such case; (B) from time to time make a ratable dividend on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction and, after the assets of such organization have been liquidated, make further dividends on all claims previously proved or adjudicated, and he may accept in lieu of a formal proof of claim on behalf of any creditor or member the statement of any amount due to such creditor or member as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend shall be barred and claims rejected or disallowed by the liquidating agent shall be likewise barred unless suit be instituted thereon within three months after notice of rejection or disallowance; and (C) in a “no publication” liquidation, determine from all sources available to him, and within the limits of available funds of the Federal credit union, the amounts due to creditors and members, and after sixty days shall have elapsed from the date of his appointment distribute the funds of the Federal credit union to creditors and members ratably and as their interests may appear.

(5) Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon such proof as shall be satisfactory to the Board in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the Board shall cancel the charter of such Federal credit union; but the corporate existence of the Federal credit union shall continue for a period of three years from the date of such cancellation of its charter, during which period the liquidating agent, or his duly appointed successor, or such persons as the Board shall designate, may act on behalf of the Federal credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(c) After the expiration of five years from the date of cancellation of the charter of a Federal credit union the Board may, in its discretion, destroy any or all books and records of such Federal credit union in its possession or under its control.

(d) The Board is authorized and empowered to execute any and all functions and perform any and all duties vested in it hereby, through such persons as it shall designate or employ; and it may delegate to any person or persons, including any institution operating under the general supervision of the Administration, the performance and discharge of any authority, power, or function vested in it by this chapter.

(e) All books and records of Federal credit unions shall be kept and reports shall be made in accordance with forms approved by the Board.

(f)(1) The Board is authorized to make investigations and to conduct researches and studies of the problems of persons of small means in obtaining credit at reasonable rates of interest, and of the methods and benefits of cooperative saving and lending among such persons. It is further authorized to make reports of such investigations and to publish and disseminate the same.

(2)(A) The Board is authorized to conduct directly, or to make grants to or contracts with colleges or universities, State or local educational agencies, or other appropriate public or private nonprofit organizations to conduct, programs for the training of persons engaged, or preparing to engage, in the operation of credit unions and in related consumer counseling programs, serving the poor. It is authorized to establish a program of experimental, developmental, demonstration, and pilot projects, either directly or by grants to public or private nonprofit organizations, including credit unions, or by contracts with such organizations or other private organizations, designed to promote more effective operation of credit unions, and related consumer counseling programs, serving the poor.

(B) In carrying out its authority under this paragraph, the Board shall consult with officials of the Office of Economic Opportunity and other appropriate Federal agencies responsible for the administration of projects or programs concerned with problems of the poor. The development and operation of programs and projects under this paragraph shall involve maximum feasible participation of residents of the areas and members of the groups served by such programs and projects, with community action agencies established under the provisions of the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] serving, to the extent feasible, as the means through which such participation is achieved.

(C) In order to carry out the purposes of this paragraph, there is authorized to be appropriated, as a supplement to any funds that may be expended by the Board pursuant to sections 1755 and 1756 of this title for such purposes, not to exceed \$300,000 for the fiscal year ending June 30, 1970, and not to exceed \$1,000,000 for the fiscal year ending June 30, 1971.

(g) Any officer or employee of the Administration is authorized, when designated for the purpose by the Board, to administer oaths and affirmations and to take affidavits and depositions touching upon any matter within the jurisdiction of the Administration.

(h) The Board is authorized, empowered, and directed to require that every person appointed or elected by any Federal credit union to any position requiring the receipt, payment, or custody of money or other personal property owned by a Federal credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company holding a certificate of authority from the Secretary of the Treasury under chapter 93 of title 31, as an acceptable surety on Federal bonds. Any such bond or

bonds shall be in a form approved by the Board with a view to providing surety coverage to the Federal credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the Board may determine to be reasonably appropriate or as elsewhere required by this chapter. Any such bond or bonds shall be in such an amount in relation to the money or other personal property involved or in relation to the assets of the Federal credit union as the Board may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. In lieu of individual bonds the Board may approve the use of a form of schedule or blanket bond which covers all of the officers and employees of a Federal credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the Federal credit union. The Board may also approve the use of a form of excess coverage bond whereby a Federal credit union may obtain an amount of coverage in excess of the basic surety coverage.

(i) In addition to the authority conferred upon it by other sections of this chapter, the Board is authorized in carrying out its functions under this chapter—

(1) to appoint such personnel as may be necessary to enable the Administration to carry out its functions;

(2) to expend such funds, enter into such contracts with public and private organizations and persons, make such payments in advance or by way of reimbursement, acquire and dispose of, by lease or purchase, real or personal property, without regard to the provisions of any other law applicable to executive or independent agencies of the United States, and perform such other functions or acts as it may deem necessary or appropriate to carry out the provisions of this chapter, in accordance with the rules and regulations or policies established by the Board not inconsistent with this chapter; and

(3) to pay stipends, including allowances for travel to and from the place of residence, to any individual to study in a program assisted under this chapter upon a determination by the Board that assistance to such individual in such studies will be in furtherance of the purposes of this chapter.

(j) Staff.—

(1) Appointment and compensation.—The Board shall fix the compensation and number of, and appoint and direct, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(2) Additional compensation and benefits.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable

provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

(3) Funding.—The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this chapter.

§1767. §121

Fiscal agents and depositories; authorization to secure deposits by governmental bodies.—(a) Each Federal credit union organized under this chapter, when requested by the Secretary of the Treasury, shall act as fiscal agent of the United States and shall perform such services as the Secretary of the Treasury may require in connection with the collection of taxes and other obligations due the United States and the lending, borrowing, and repayment of money by the United States, including the issue, sale, redemption, or repurchase of bonds, notes, Treasury certificates of indebtedness, or other obligations of the United States; and to facilitate such purposes the Board shall furnish to the Secretary of the Treasury from time to time the names and addresses of all Federal credit unions with such other available information concerning them as may be requested by the Secretary of the Treasury. Any Federal credit union organized under this chapter, when designated for that purpose by the Secretary of the Treasury, shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary of the Treasury.

(b) Any Federal credit union, upon the deposit with it of any funds by the Federal Government, an Indian tribe, or any State or local government or political subdivision thereof as otherwise authorized by this chapter, is authorized to pledge any of its assets securing the payment of the funds so deposited.

§1768. §122

Taxation.—The Federal credit unions organized hereunder, their property, their franchises, capital, reserves, surpluses, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such Federal credit unions shall be subject to Federal, State, Territorial, and local taxation to the same extent as other similar property is taxed. Nothing herein contained shall prevent holdings in any Federal credit union organized hereunder from being included in the valuation of the personal property of the owners or holders thereof in assessing taxes imposed by authority of the State or political subdivision thereof in which the Federal credit union is located; but the duty or burden of collecting or enforcing the payment of such a tax shall not be imposed upon any such Federal credit union and the tax shall not exceed the rate of taxes imposed upon holdings in domestic credit unions.

§1769. §123

Separability; right to alter, amend, or repeal chapter.—(a) If any provision of this chapter or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) The right to alter, amend, or repeal this chapter or any part thereof, or any charter issued pursuant to the provisions of this chapter, is expressly reserved.

§1770. §124

Allotment of space in Federal buildings or Federal land.—Notwithstanding any other provision of law, upon application by any credit union organized under State law or by any Federal credit union organized in accordance with the terms of this chapter, which application shall be addressed to the officer or agency of the United States charged with the allotment of space on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or in the Federal buildings in the community or district in which such credit union does business, such officer or agency may in his or its discretion lease land or allot space to such credit union without charge for rent or services if at least 95 percent of the membership of the credit union to be served by the allotment of space or the facility built on the lease land is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families, and if space is available. For the purpose of this section, the term “services” includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of space or services, nothing in title 31 or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

§1771. §125

Conversion from Federal to State credit union and from State to Federal credit union.—

(a) A Federal credit union may be converted into a State credit union under the laws of any State, the District of Columbia, the several Territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, by complying with the following requirements:

(1) The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written **or electronic** ballot to be filed on or before such date), by a majority of the directors of the Federal credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, ~~or~~ mailed to each member at the address for such member appearing on the records of the credit union, **or electronically**

transmitted to each member at the electronic address for such member appearing in the records of the credit union, not more than thirty nor less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in boldface type state that the issue will be decided by a majority of the members who vote. **In the case that the proposition is to be decided by electronic ballot, members must also be permitted to cast a written ballot in lieu of electronic ballot.**

(2) A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary, shall be filed with the Administration within ten days after the vote is taken.

(3) Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved by such vote, the credit union shall take such action as may be necessary under the applicable State law to make it a State credit union, and within ten days after receipt of the State credit union charter there shall be filed with the Administration a copy of the charter thus issued. Upon such filing the credit union shall cease to be a Federal credit union.

(4) Upon ceasing to be a Federal credit union, such credit union shall no longer be subject to any of the provisions of this chapter. The successor State credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the Federal credit union to the same extent as though the conversion had not taken place.

(b)(1) A State credit union, organized under the laws of any State, the District of Columbia, the several Territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, may be converted into a Federal credit union by (A) complying with all State requirements requisite to enabling it to convert to a Federal credit union or to cease being a State credit union, (B) filing with the Administration proof of such compliance, satisfactory to the Board, and (C) filing with the Administration an organization certificate as required by this chapter.

(2) When the Board has been satisfied that all of such requirements, and all other requirements of this chapter, have been complied with, the Board shall approve the organization certificate. Upon such approval, the State credit union shall become a Federal credit union as of the date it ceases to be a State credit union. The Federal credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the State credit union to the same extent as though the conversion had not taken place.

§1772. §126

Territorial application of chapter.—The provisions of this chapter shall apply to the several States, the District of Columbia, the several Territories, including the trust

territories, and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

Credit Union Powers

Federal credit union powers have not been revisited by Congress in nearly two decades. The Act is generally more prescriptive and restrictive than the corresponding banking laws and the various state credit union charters.

We propose 19 changes to the treatment of credit union powers under the Federal Credit Union Act across four broad categories: general powers (§1757), member business lending (§1757a), bylaws (§1758) and field of membership (§1759).

General Powers

Eliminate maturity limit restrictions.

Currently federal credit union loans are limited to 15 years in maturity unless otherwise provided by the Act. Banks have no similar restrictions hardwired into the law. In addition, XX states permit credit unions to offer loans with maturity longer than 15 years.

We propose eliminating the threshold. The market has generally established maturity thresholds for various types of loans. The additional flexibility provided by this amendment would allow credit unions to tailor lending products toward the needs of their members, and could facilitate additional low-income housing credit as well as student lending assistance.

Increase usury ceiling to 18%

Credit unions were created in part to protect consumers against unreasonable usury. Since its enactment, the Federal Credit Union Act has included some form of usury ceiling. In recent years, the National Credit Union Administration has been permitted to increase the ceiling under certain circumstances and for a temporary period of time. However, NCUA has not frequently set the ceiling at a rate other than 18%.

We propose increasing the statutory ceiling to 18% and preserving the NCUA's ability when necessary to increase the ceiling on a temporary basis.

Allow for prepayment penalties for member business loans

XX States allow for this.

Increase investment authority in CUSOs

Reduce participation skin in the game from 10% to 5%

Expanded investment authority subject to NCUA regulation or application by a federal credit union

Clarify that credit unions may provide technical assistance to credit unions outside of the United States

Supplemental Capital

Permit credit unions to accept supplemental capital for purposes of prompt corrective action.

Member Business Lending

Increases member business lending cap to 27.5% of total assets

Exempt 1-4 family non owner occupied loans from member business lending cap

Increase de minimus threshold for a loan to count toward the MBL cap to \$500,000

Exempt loans guaranteed in part by the governmental agencies from MBL cap.

By Laws

Federal credit union bylaws shall be presented to the Board at time of incorporation.

Field of Membership

Remove limitations on voting rights of joint tenants.

Eliminates the single bond credit union charter, merging it with multiple common bond charter to create a common bond charter.

Authorizes the NCUA Board to define common bond.

Authorizes the NCUA Board to define community or rural district for the purposes of a community charter credit union.

Allows all credit unions to serve underserved areas.

Allows federal credit unions to have both a common bond and community field of membership.

Redline Changes

§1757. §107

Powers.—A Federal credit union shall have succession in its corporate name during its existence and shall have power—

(1) to make contracts;

(2) to sue and be sued;

(3) to adopt and use a common seal and alter the same at pleasure;

(4) to purchase, hold, and dispose of property necessary or incidental to its operations;

(5) to make loans, ~~the maturities of which shall not exceed 15 years, except as otherwise provided herein,~~ and extend lines of credit to its members, to other credit unions, and to credit union organizations and to participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) Loans to members shall be made in conformity with criteria established by the board of directors: Provided, That—

~~(i) a residential real estate loan on a one-to-four family dwelling, including an individual cooperative unit, that is or will be the principal residence of a credit union member, and which is secured by a first lien upon such dwelling, may have a maturity not exceeding thirty years or such other limits as shall be set by the National Credit Union Administration Board (except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board), subject to the rules and regulations of the Board;~~

~~(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member, shall have a maturity not to exceed 15 years or any longer term which the Board may allow;~~

~~(iii) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided;~~

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds \$20,000 plus pledged shares, be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser be approved by the board of directors when such loans standing alone or when added to any outstanding loan or loans of the guarantor or endorser exceeds \$20,000;

(vi) the rate of interest may not exceed ~~15~~ 18 per centum per annum on the unpaid balance inclusive of all finance charges, except that the Board may establish—

(I) after consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, an interest rate ceiling exceeding such ~~15~~ 18 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth; and

(II) a higher interest rate ceiling for Agent members for the Central Liquidity Facility in carrying out the provisions of subchapter III of this chapter for such periods as the Board may authorize;

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this paragraph, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back from the credit union taking or receiving the same, in an action in the nature of an action of debt, the entire amount of interest paid; but such action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay his loan, prior to maturity in whole or in part on any business day without penalty, except that on a first or second mortgage loan **or a member business loan** a Federal credit union may require that any partial prepayments (I) be made on the date monthly installments are due, and (II) be in the amount of that part of one or more monthly installments which would be applicable to principal;

(ix) loans shall be paid or amortized in accordance with rules and regulations prescribed by the Board after taking into account the needs or conditions of the

borrowers, the amounts and duration of the loans, the interests of the members and the credit unions, and such other factors as the Board deems relevant;

(x) loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's unimpaired capital and surplus.

(B) A self-replenishing line of credit to a borrower may be established to a stated maximum amount on certain terms and conditions which may be different from the terms and conditions established for another borrower.

(C) Loans to other credit unions shall be approved by the board of directors.

(D) Loans to credit union organizations shall be approved by the board of directors and shall not exceed ~~1~~ 3 per centum of the paid-in and unimpaired capital and surplus of the credit union. A credit union organization means any organization as determined by the Board, which is established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve.

(E) Participation loans with other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the board of directors: Provided, That a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least ~~10~~ 5 per centum of the face amount of the loan;

(6) to receive from its members, from other credit unions, from an officer, employee, or agent of those nonmember units of Federal, Indian tribal, State, or local governments and political subdivisions thereof enumerated in section 1787 of this title and in the manner so prescribed, from the Central Liquidity Facility, and from nonmembers in the case of credit unions serving predominately low-income members (as defined by the Board) payments, representing equity, on—

(A) shares which may be issued at varying dividend rates;

(B) share certificates which may be issued at varying dividend rates and maturities; and

(C) share draft accounts authorized under section 1785(f) of this title;

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board;

(7) to invest its funds—

(A) in loans exclusively to members;

(B) in obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby;

(C) in accordance with rules and regulations prescribed by the Board, in loans to other credit unions in the total amount not exceeding 25 per centum of its paid-in and unimpaired capital and surplus;

(D) in shares or accounts of savings and loan associations or mutual savings banks, the accounts of which are insured by the Federal Deposit Insurance Corporation;

(E) in obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks, the Federal Housing Finance Board, or any corporation designated in section 9101(3) of title 31 as a wholly owned Government corporation; or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title; or in obligations or other instruments or securities of the Student Loan Marketing Association; or in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any other agency of the United States and a Federal credit union may issue and sell securities which are guaranteed pursuant to section 1721(g) of this title;

(F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more Government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee;

(G) in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the Federal credit union making the investment;

(H) in shares, share certificates, or share deposits of federally insured credit unions;

(I) in the shares, stocks, or obligations of any other organization, providing services which are associated with the routine operations of credit unions, up to 1 per centum of the total paid in and unimpaired capital and surplus of the credit union with the approval of the Board: Provided, however, That such authority does not include the power to acquire control directly or indirectly, of another financial institution, nor invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any other similar organization, corporation, or association, except as otherwise expressly provided by this chapter;

(J) in the capital stock of the National Credit Union Central Liquidity Facility;

(K) investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer);

(L) in shares, stocks, or such other investments, loans, or obligations as the Board may permit by regulation or by approval of an application by a federal credit union for such purpose.

(8) to make deposits in national banks and in State banks, trust companies, and mutual savings banks operating in accordance with the laws of the State in which the Federal credit union does business, or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation and for Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories, subject to such regulations as may be issued by the Board and provided such banks are correspondents of banks described in this paragraph;

(9) to borrow, in accordance with such rules and regulations as may be prescribed by the Board, from any source, in an aggregate amount not exceeding, except as authorized by the Board in carrying out the provisions of subchapter III of this chapter, 50 per centum of its paid-in and unimpaired capital and surplus: Provided, That any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital;

(10) to levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the Federal credit union;

(11) to impress and enforce a lien upon the shares and dividends of any member, to the extent of any loan made to him and any dues or charges payable by him;

(12) in accordance with regulations prescribed by the Board—

(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers and remittance transfers, as defined in section 16930-1 of title 15); and

(B) to cash checks and money orders for persons in the field of membership for a fee;

(13) in accordance with rules and regulations prescribed by the Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Board) of its members and to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating

credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union;

(14) to sell all or a part of its assets to another credit union, to purchase all or part of the assets of another credit union and to assume the liabilities of the selling credit union and those of its members subject to regulations of the Board;

(15) to invest in securities that—

(A) are offered and sold pursuant to section 77d(5) of title 15;

(B) are mortgage related securities (as that term is defined in section 78c(a)(41) of title 15), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both; or

(C) are small business related securities (as defined in section 78c(a)(53) of title 15), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;

(16) subject to such regulations as the Board may prescribe, to provide technical assistance to credit unions ~~in Poland and Hungary outside of the United States of America; and~~

(17) to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.; and

(18) to receive payments on uninsured non-share accounts described under section 216(o)(2)(D), subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.”

§216(b)(1)(B)(ii)

(B) Cooperative character of credit unions.—The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

(i) do not issue capital stock;

(ii) must rely *predominately* on retained earnings to build net worth; and

(iii) have boards of directors that consist primarily of volunteers.

§206(o)(2)

(2) Net worth.—The term “net worth”—

(A) with respect to any insured credit union, means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined;

(B) with respect to any insured credit union, includes, at the Board’s discretion and subject to rules and regulations established by the Board, assistance provided under section 208 to facilitate a least-cost resolution consistent with the best interests of the credit union system; ~~and~~

(C) with respect to a low-income credit union, includes secondary capital accounts that are—

(i) uninsured; and

(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

(D) with respect to any insured credit union other than a low-income credit union, includes uninsured non-share accounts as authorized by the Board, that—

(i) do not alter the cooperative nature of the credit union;

(ii) are subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund;

(iii) are available to be applied to cover operating losses of the credit union in excess of its retained earnings and, to the extent so applied, will not be replenished;

(iv) if they have a stated maturity, have an initial maturity of at least 5 years;

(v) if they have a stated maturity, the net worth value of such accounts may be discounted at the discretion of the Board when the remaining maturity is less than 5 years;

(vi) are subject to disclosure and consumer protection requirements as determined by the Board;

(vii) are offered by a credit union that is determined by the Board to be sufficiently capitalized and well-managed; and

(viii) are subject to such rules and regulations as the Board may establish.

§1757a. §107A

Limitation on member business loans.—(a) In general.—On and after August 7, 1998, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

(1) 1.75 times the actual net worth of the credit union; or

(2) 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of this title for a credit union to be well capitalized.

(a) Limitation.—

(1) IN GENERAL.—Except as provided in paragraph (2), an insured credit union may not make any member business loan that would result in the total amount of such loans outstanding at that credit union at any one time to be equal to more than the lesser of—

(A) 1.75 times the actual net worth of the credit union; or

(B) 12.25 percent of the total assets of the credit union.

(2) ADDITIONAL AUTHORITY.—The Board may approve an application by an insured credit union upon a finding that the credit union meets the criteria under this paragraph to make 1 or more member business loans that would result in a total amount of such loans outstanding at any one time of not more than 27.5 percent of the total assets of the credit union, if the credit union—

(A) had member business loans outstanding at the end of each of the 4 consecutive quarters immediately preceding the date of the application, in a total amount of not less than 80 percent of the applicable limitation under paragraph (1);

(B) is well capitalized, as defined in section 216(c)(1)(A);

(C) can demonstrate at least 5 years of experience of sound underwriting and servicing of member business loans;

(D) has the requisite policies and experience in managing member business loans; and

(E) has satisfied other standards that the Board determines are necessary to maintain the safety and soundness of the insured credit union.

(3) EFFECT OF NOT BEING WELL CAPITALIZED.—An insured credit union that has made member business loans under an authorization under paragraph (2) and that is not, as of its most recent quarterly call report, well capitalized, may not make any member business loans, until such time as the credit union becomes well capitalized (as defined in section 216(c)(1)(A)), as reflected in a subsequent quarterly call report, and obtains the approval of the Board.

(b) Exceptions.—Subsection (a) of this section does not apply in the case of—

(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

(2) an insured credit union that—

(A) serves predominantly low-income members, as defined by the Board; or

(B) is a community development financial institution, as defined in section 4702 of this title.

(c) Definitions.—As used in this section—

(1) the term “member business loan”—

(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

(B) does not include an extension of credit—

(i) that is fully secured by a lien on a 1-to 4-family dwelling ~~that is the primary residence of a member~~;

(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than ~~\$50,000~~ \$500,000;

(iv) the repayment of which is ~~fully~~ insured or ~~fully~~ guaranteed ~~in whole or in part~~ by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

(2) the term “net worth”—

(A) with respect to any insured credit union, means the credit union’s retained earnings balance, as determined under generally accepted accounting principles; and

(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

(i) uninsured; and

(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

(3) the term “associated member” means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

(d) Effect on existing loans.—An insured credit union that has, on August 7, 1998, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) of this section shall, not later than 3 years after August 7, 1998, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a) of this section.

(e) Consultation and cooperation with State credit union supervisors.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

§1758. §108

~~Bylaws.—In order to simplify the organization of Federal credit unions the Board shall from time to time cause to be prepared a form of organization certificate and a form of bylaws consistent with this chapter, which shall be used by Federal credit union incorporators, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators of Federal credit unions shall also submit proposed bylaws to the Board for its approval.~~

§1759. §109

Membership.—(a) In general.—Subject to subsection (b) of this section, Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Board, as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, ~~but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.~~

(b) Membership field.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in one of the following categories:

~~(1) Single common bond credit union.—One group that has a common bond of occupation or association.~~

~~(2) Multiple e-Common-bond credit union.— More than one group One or more group—~~

~~(A) each of which has (within the group) a common bond of occupation or association, as defined by the Board; and~~

~~(B) the number of members, each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d) of this section.~~

(3) Community credit union.—Persons or organizations within a well-defined ~~local~~ community, ~~neighborhood~~, or rural district, as defined by the Board.

(c) Exceptions.—

~~(1) Grandfathered members and groups~~

~~(A) In general.—Notwithstanding subsection (b) of this section—~~

~~(i) any person or organization that is a member of any Federal credit union as of August 7, 1998, may remain a member of the credit union after August 7, 1998; and~~

~~(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of August 7, 1998, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after August 7, 1998.~~

~~(B) Successors.—If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.~~

~~(2) Exception for underserved areas.—Notwithstanding subsection (b) of this section, in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2) of this section, the Board may allow the membership of the credit union to include any person or organization within a ~~local~~ community, ~~neighborhood~~, or rural district if—~~

~~(A) the Board determines that the ~~local~~ community, ~~neighborhood~~, or rural district—~~

~~(i) is an “investment area”, as defined in section 4702(16) of this title, and meets such additional requirements as the Board may impose; and~~

~~(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 1813 of this title), by other depository institutions (as defined in section 461(b)(1)(A) of this title); and~~

~~(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.~~

~~(d) Multiple common bond credit union group requirements.—~~

~~(1) Numerical limitation.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2) of this section.~~

~~(2) Exceptions.—In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2) of this section, the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—~~

~~(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common bond credit union, the field of membership category of which is described in subsection (b)(1) of this section because—~~

~~(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;~~

~~(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or~~

~~(iii) the group would be unlikely to operate a safe and sound credit union;~~

~~(B) any group transferred from another credit union—~~

~~(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or~~

~~(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to that other credit union; or~~

~~(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after August 7, 1998.~~

~~(3) Regulations and guidelines.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2) of this section.~~

~~(e) Additional membership eligibility provisions.—~~

~~(1) Membership eligibility limited to immediate family or household members.—No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.~~

(2) Retention of membership.—Except as provided in section 1764 of this title, once a person becomes a member of a credit union in accordance with this subchapter, that person or organization may remain a member of that credit union until the person or organization chooses to withdraw from the membership of the credit union.

(f) Criteria for approval of expansion of multiple common-bond credit unions.—

(1) In general.—The Board shall—

(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

(2) Approval criteria.—The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) of this section to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) of this section to include an additional group and become a credit union described in subsection (b)(2) of this section), unless the Board determines, in writing, that—

(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 1786(b) of this title) that is material during the 1-year period preceding the date of filing of the application;

(B) the credit union is adequately capitalized;

(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

(D) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

(E) the credit union has met such additional requirements as the Board may prescribe, by regulation.

(g) Regulations required for community credit unions.—

~~(1) Definition of well-defined local community, neighborhood, or rural district.—The Board shall prescribe, by regulation, a definition for the term “well-defined local community, neighborhood, or rural district” for purposes of—~~

~~(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3) of this section; and~~

~~(B) establishing the criteria applicable with respect to any such determination.~~

~~(2) Scope of application.—The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after August 7, 1998.~~

(2) Rule of Construction. Nothing in this section shall preclude the Board for approving a credit union to operate as both a Common Bond credit union and a Community Credit Union.

National Credit Union Administration Structure

An independent, competent and exclusive credit union regulator is critically important to success of the credit union system. Credit unions remain willing to pay the costs of such a regulator and encourage Congress to make several enhancements to the structure of the agency by expanding the size of the board, removing the restriction on a board member's ability to serve more than one consecutive term, and modernizing the appointment criteria for board members.

Under the FCUA, the NCUA Board is comprised of three members appointed by the president by and with the advice and consent of the Senate. One of these member is designated chairman by the president. We recommend expanding the size of the NCUA Board from three members to five members. Such a move will facilitate collaboration on the NCUAB Board and address potential problems, including the establishment of quorum, associated with a smaller board. Further, increasing the size of the board will make the NCUA Board's size more consistent with other federal financial regulators. There may be a nominal budget impact but it should not be significant to overall agency budget.

We recommend significant changes to the appointment criteria for NCUA Board members. Simply put, the appointment criteria for the NCUA Board should favor – not guard against – the appointment of board members who are credit union members and have familiarity with the operation of credit unions. At a minimum, the law should be neutral to the board member's credit union experience. The Federal Deposit Insurance Act does not limit the number of FDIC board members with banking experience. The safety and soundness of both the banking industry as well as the credit union movement is enhanced when its regulators have experience with the institutions subject to their regulation.

Redline Changes

§1752a. §102

National Credit Union Administration.—

(a) Establishment; management under National Credit Union Administration Board.—There is established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

(b) Membership and appointment of Board.—

(1) In general.—The Board shall consist of ~~three~~ five members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the

President shall designate the Chairman. Not more than ~~two~~ three members of the Board shall be members of the same political party.

(2) Appointment criteria.—

(A) Experience in financial services.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

~~(B) Limit on appointment of credit union officers.—Not more than one member of the Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.~~

(C) Term of office.—The term of office of each member of the Board shall be six years, except that the terms of the two members, ~~other than the Chairman, initially~~ appointed ~~as a result of the changes made by this Act~~ shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves ~~more than once~~ except the initial members appointed for less than a six-year term may be reappointed for ~~a as many as two~~ full six-year terms and future members appointed to fill unexpired terms may be reappointed for ~~a as many as two~~ full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified. ~~If a boardmember is reappointed to succeed himself, the term of office for the second full six-year term shall commence upon the expiration of the term the boardmember has served.~~

(D) Management of Administration vested in Board; adoption of rules; quorum; report to President and Congress.—The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

(E) Functions of Chairman.—The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

(F) Audit by Government Accountability Office.—The financial transactions of the Administration shall be subject to audit by the Government Accountability Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.

National Credit Union Share Insurance Fund

Other Matters

Conclusion

Support Material