

2. Amend Appendix A to part 708a to revise paragraph (2)(m) to read as follows:

Appendix A to Part 708a—Notice to Members of Special Meeting, Disclosure and Ballot

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(2) * * *

(m) The cover of the Disclosure Statement must contain the following statement in bold, appropriately modified to the extent that this statement does not accurately describe the transaction:

PLEASE READ THIS DISCLOSURE DOCUMENT. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR CREDIT UNION.

If the credit union converts to a savings bank, the institution will no longer be democratically controlled with each member having one equal vote. As explained in this Disclosure, the larger depositors will have more votes than the smaller depositors.

This action would enable the credit union to further change its organizational structure in the future. For example, if the institution were to convert to a stock institution, you would lose your equity ownership interest. Any future decision to convert to a stock institution would be made by a vote of the members, however, the weight your vote carries will be based on the amount of your deposit in the institution.

If the credit union converts to a savings bank, your board of directors may receive financial benefits not available to other members. For example, Board members could be compensated and they could obtain stock on terms not available to other members, after waiting the two years required by credit union regulation.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708b

Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Notice of proposed rulemaking.

SUMMARY: The NCUA Board propose to amend the disclosure forms in NCUA's regulations relating to mergers and voluntary termination or conversion of insured status in mergers of federally-insured credit unions. The amendments inform the members that, if their credit union converts to nonfederal insurance, the private insurance fund insuring their accounts is not backed by the full faith and credit of the United States government. It also informs the members that, if their credit union

terminates insurance, their shares, excluding those covered for one year, are no longer insured by the federal government or any other entity.

DATES: Comments must be received on or before February 2, 1998.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428. Fax comments to (703) 518-6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

The Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*, requires credit unions that are not federally insured to advise their members on "all periodic statements of account, on each signature card, and on each passbook, certificate or deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal government does not guarantee that depositors will get back their money." 12 U.S.C. 1831t(b)(1). Clearly, a member of a credit union being asked to vote on a proposal that would replace federal insurance with private insurance is entitled to a similar disclosure. Currently, NCUA's regulations do not require disclosure of this information.

Proposal

Sections 708(b).301 (a)(1) and (b)(1) contain the form notices that are sent to the members if a credit union is seeking to terminate federal insurance. The proposal would amend the notices by clarifying to the members that if the credit union fails, their shares are no longer insured by the federal government or any other entity.

Sections 708b.302(a)(1), (a)(2), (b)(1) and (b)(2) contain the form notices and ballots that are sent to the members if a credit union is seeking to convert from federal to nonfederal insurance. The proposal would add a sentence to the notice and ballot explaining that the insurance provided by the NCUA is backed by the full faith and credit of the United States government and that the private insurance the member will receive if the credit union converts is not backed by the United States government.

The Board believes this information must be disclosed in order for the member to make an informed vote on the proposed transaction. Disclosure of this information is consistent with the disclosure requirements Congress imposes on credit unions lacking federal insurance.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic effect any regulation may have on a substantial number of small credit unions, meaning those under \$1 million in assets. The NCUA Board has determined and certifies that the proposed rule if adopted will not have a significant economic impact on a substantial number of small credit unions. The reasons for this determination are that the proposed rule requires the addition of two sentences to the disclosure form used by credit unions converting to nonfederal insurance. The addition of these two sentences will not increase the costs of the conversion and therefore will not create a financial burden. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed amendments will apply to all federally insured credit unions. The proposed amendments are not designed or intended to interfere with the state regulation of state-chartered institutions. However, the Board is modeling this proposal on federal legislation that specifically applies to state-chartered credit unions. The NCUA Board has determined that the proposed amendments are not likely to have any direct effect on states, the relationship between the states, or the distribution of power and responsibilities among the various levels of government.

Paperwork Reduction Act

The proposed amendment requires the credit union to provide to its members information that is provided by NCUA in the proposal. The Paperwork Reduction Act does not apply to disclosures that are directives for a person to disclose information completely supplied by the agency. 5 CFR 1320.3(c)(2).

List of Subjects in 12 CFR Part 708b

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 24, 1997.
Becky Baker,
Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 708b as follows:

**PART 708b—MERGERS OF
 FEDERALLY-INSURED CREDIT
 UNIONS; VOLUNTARY TERMINATION
 OR CONVERSION OF INSURED
 STATUS**

1. The authority citation for part 708b continues to read as follows:

Authority: 12 U.S.C. 1766, 1785, 1786, 1789.

2. In § 708b.301, paragraph (a)(1) is amended by revising the second paragraph of the *Notice of Proposal to Terminate Federal Insurance* and paragraph (b)(1) is amended by revising the third paragraph of the *Notice of Proposal to Merge and Terminate Federal Insurance* to read as follows:

§ 708b.301 Termination of insurance.

(a) * * *
 (1) *Notice of Proposal to Terminate Federal Insurance*

* * * * *

If approved, any deposits made by you after the date of termination, either new deposits or additions to existing accounts, will not be insured by the NCUA or any other entity. In the event the credit union fails, these deposits are not insured by the federal government. No provision has been made for alternative insurance, therefore, these deposits will be uninsured.

* * * * *

(b) * * *
 (1) *Notice of Proposal to Merge and Terminate Federal Insurance*

* * * * *

Any deposits made by you after the effective date of the merger, either new deposits or additions to existing accounts, will not be insured by the NCUA or any other entity. In the event the credit union fails, these deposits are not insured by the federal government. No provision has been made for alternative insurance, therefore, these deposits will be uninsured. Accounts in the *merging* Credit Union on the date of the merger, up to a maximum of \$100,000 for each member, will continue to be insured, as provided in the Federal Credit Union Act, for one (1) year after the close of business on the date of the merger, but any withdrawals after the close of business on that date will reduce the insurance coverage by the amount of the withdrawal.

* * * * *

3. In § 708b.302, paragraph (a)(1) is amended by adding two sentences at the

end of the second paragraph of the *Notice of Proposal to Convert to Nonfederally-Insured Status*, paragraph (a)(2) is amended by adding a sentence at the end of the second paragraph of the ballot, paragraph (b)(1) is amended by adding two sentences at the end of the second paragraph of the *Notice of Proposal to Merge and Convert to Nonfederally-Insured Status* and paragraph (b)(2) is amended by adding a sentence at the end of the second paragraph of the ballot to read as follows:

§ 708b.302 Conversion of insurance.

(a) * * *
 (1) *Notice of Proposal to Convert to Nonfederally-Insured Status*

* * * * *

* * * The insurance provided by the National Credit Union Administration, an independent agency of the United States, is backed by the full faith and credit of the United States government. The private insurance you will receive from

_____ is not guaranteed by the federal or any state government.

(2) * * * The private insurance provided by _____ is not backed by the full faith and credit of the United States government as is the federal insurance provided by the National Credit Union Administration.

* * * * *

(b) * * *
 (1) *Notice of Proposal to Merge and Convert to Nonfederally-Insured Status*

* * * * *

* * * The insurance provided by the National Credit Union Administration, an independent agency of the United States, is backed by the full faith and credit of the United States government. The private insurance you will receive from

_____ is not guaranteed by the federal or any state government.

(2) * * * The private insurance provided by _____ is not backed by the full faith and credit of the United States government as is the federal insurance provided by the National Credit Union Administration.

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RAILROAD RETIREMENT BOARD

20 CFR Part 211

RIN 3220-AB23

Creditable Railroad Compensation

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board hereby proposes to amend its regulations to limit the crediting of pay

for time lost to periods prior to the judgment or agreement establishing that payment or in the case of pay for time lost not attributable to a judgment or settlement, prior to the date of payment.

DATES: Comments must be received on or before February 2, 1998.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611, telephone 312-751-4513, TTD 312-751-4701.

SUPPLEMENTARY INFORMATION: Payments made for periods during which an employee is absent from the active service of an employer are considered to be "pay for time lost" and creditable compensation under the Railroad Retirement Act. Pay for time lost includes pay received due to an injury or due to loss of earnings attributable to the employee being placed in a position paying less money. Employers are required to allocate pay for time lost to the months in which the time was actually lost. Pursuant to section 211.3 of the current regulations, the Board will accept an allocation of pay for time lost for periods after the judgment or settlement, and after the payment is made. The practice has been costly to the railroad retirement system in that taxes under the Railroad Retirement Tax Act are imposed on railroad compensation at the time of payment up to the maximum taxable amount for the year in which the payment is made. Accordingly, if a personal injury suit is settled in 1997 and the railroad agrees to pay the employee \$300,000 to be allocated as pay for time lost over the period 1997 through 2002 with \$50,000 being designated to each year as pay for time lost, the employee would receive six years of retirement credit, but taxes would cover only one year of those additional credits.

There is no requirement in the statute that pay for time lost be creditable prospectively and, in the view of the majority of the Board, to allow prospective crediting of pay for time lost cannot be justified in view of the additional, potentially large costs to the system.

Section 1(h)(2) of the Railroad Retirement Act requires that pay for time lost must be paid with respect to an identifiable period of absence. This language, in the view of a majority of the Board, suggests that pay for time lost should be credited only to a known period of absence in the past. It is impossible to predict whether or not an