



12 CFR Part 708a

RIN 3133-AG02

Bank Conversions and Mergers, Subpart C - Merger Of Insured Credit Unions Into Banks

AGENCY: National Credit Union Administration (NCUA)

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is proposing to amend its regulations governing the merger of insured credit unions into banks. The Board proposes to eliminate certain prescriptive procedural, disclosure, and communication requirements. This action is necessary to reduce unnecessary regulatory burdens and provide credit union boards of directors with greater flexibility to exercise their business judgment. The intended effect of these changes is to ensure members receive clear and effective disclosures while simplifying compliance for credit unions, reducing administrative costs, and modernizing the conversion process.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted in one of the following ways. (Please send comments by one method only):

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The docket number for this proposed rule is NCUA-2026-0982. Follow the “Submit a comment” instructions. If you are reading this document on [federalregister.gov](https://www.federalregister.gov), you may use the green “SUBMIT A PUBLIC COMMENT” button beneath this rulemaking’s title to submit a comment to the [regulations.gov](https://www.regulations.gov) docket. A plain language summary of the proposed rule is also available on the docket website.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mailing address.

Mailed and hand-delivered comments must be received by the close of the comment period.

Public inspection: Please follow the search instructions on <https://www.regulations.gov> to view the public comments. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received and will not be deleted, modified, or redacted. Comments may be submitted anonymously. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518-6540 or emailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Ariel Woodard-Stephens, Staff Attorney, National Credit Union Administration, at 1775 Duke Street, Alexandria, Virginia, 22314 or by telephone at (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Board proposes to amend its regulations at 12 CFR part 708a, subpart C, which governs the merger of insured credit unions into banks. The regulations at part 708a were established under the authority of the Federal Credit Union Act (FCU Act) to provide a procedural framework for transactions that fundamentally alter a credit union's charter or structure. On December 28, 2010, the Board established the regulations at 12 CFR part 708a, subpart C.¹ The primary objective of subpart C was to establish specific procedural and substantive requirements to protect the interests of credit union members during such mergers. Key provisions included the mandatory determination of the credit union's "merger value," comprehensive disclosure requirements to members, and a structured voting process, all under the NCUA's oversight to ensure the transaction serves the convenience and needs of the members.

Section 708a.301 provides definitions for key terms used throughout the subpart, such as *Bank*, *Merger*, *Merger value*, and *Qualified appraisal entity*, which establish the specific meaning and scope of the rule's provisions. Section 708a.303 outlines the initial duties of a credit union's board of directors, requiring it to determine the merger value of the credit union through an auction or appraisal and to provide advance notice to members for comment before the board votes to approve a merger proposal. Section 708a.304 details the process for notifying the NCUA of an intended merger by submitting a "Notice of its Intent to Merge and Request for NCUA Authorization" (NIMRA), which includes the merger plan, director certifications, and due diligence materials for agency review. Section 708a.305 mandates specific disclosures that must be provided to all eligible members at 90-day and 30-day intervals before a vote, ensuring they are

¹ 75 FR 81387 (Dec. 28, 2010).

informed about the loss of ownership interests, changes to voting rights, and any compensation arrangements for directors or senior management. Finally, § 708a.312 provides a set of non-binding voting guidelines to assist credit unions in conducting a fair and legal member vote, with suggestions covering state law applicability, member eligibility, and the use of voting incentives.

B. Legal Authority

The FCU Act provides the Board a broad mandate to issue regulations governing both insured federal credit unions and federally insured state-chartered credit unions. Section 120 of the FCU Act is a general grant of regulatory authority, and it authorizes the Board to prescribe rules and regulations for the administration of the FCU Act. Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all insured credit unions. Finally, the Board is required to issue regulations regarding the conversion of insured credit unions to mutual savings banks.²

II. Proposed Rule

The Board is proposing several amendments to subpart C of 12 CFR part 708a to reduce unnecessary regulatory burdens.

The Board proposes to eliminate several provisions that are overly prescriptive and impose burdens on a credit union's board of directors during merger deliberations. These changes are intended to restore the board's role in exercising its fiduciary duties and business judgment, gravitating away from a rigid, agency-defined process. These proposed changes are intended to ensure members receive clear and effective disclosures to support informed decisions while providing credit union boards of directors with greater flexibility to exercise their business judgment.

² 12 U.S.C. 1785.

A. Streamlining Board of Directors' Duties and Pre-Voting Procedures in Mergers

In subpart C, the Board proposes to remove the definition of “clear and conspicuous” from § 708a.301, which is repeated from § 708a.101 in subpart A. This definition mandates specific formatting, such as bold type and a minimum 12-point font size. The Board believes this level of prescription is unnecessary and can hinder effective communication. It locks credit unions into a rigid standard that may not be optimal across different media, such as print and digital formats, and prevents them from using design principles that could more effectively draw member attention to key disclosures. While the FCU Act requires member notice, they are silent on specific formatting. This definition creates a legal test that is not based on the best reading of the statute. Removing this definition will allow credit unions the flexibility to design disclosures that are effective and clear for their members.

The Board also proposes to revise the pre-board-vote notice requirements contained in § 708a.303(b)(1), which mandates credit unions to publish a notice in a general circulation newspaper. The requirement to publish notice in a newspaper may no longer be one of the more effective methods for communicating with members in the digital age, while imposing unnecessary costs. The proposal would require the notice to appear on the member home banking landing page, if the credit union has one.

Finally, the Board proposes a minor revision to the due diligence reporting requirements in § 708a.304(d). The proposal would remove the requirement for the board to describe how the board located the merger partner and negotiated the merger agreement in its submission to the NCUA. The Board believes that requiring a narrative on these specific internal processes is overly intrusive and micromanages the board's deliberative functions. The critical regulatory objective is to ensure the board has conducted sufficient due diligence to conclude that a merger serves the members' best

interests. The focus of the Board's review should be on the justification for that conclusion, not the step-by-step procedural history of the negotiations. This change streamlines the reporting requirements, focusing on the substantive outcome of the board's decision-making process.

The Board invites public comment on these proposed changes. Specifically, the Board seeks comment on whether the elimination of these provisions provides boards with appropriate flexibility while still protecting member interests. The Board also seeks comment about whether the credit union's Supervisory Committee should supplement the review of the merger to ensure the members' best interests are served.

B. Modernizing and Simplifying Member Communications and Disclosures in Mergers

The Board is proposing several amendments to modernize regulations governing communications and disclosures to members, eliminating overly prescriptive, inflexible, and unnecessary requirements.

The Board proposes to remove the highly prescriptive formatting requirements in § 708a.305(e)(2). This provision dictates that certain text must be placed in a box on the front of a single, otherwise blank piece of paper and placed at a specific point in the notice package. Such prescriptive measures will not necessarily result in better member comprehension, and the Board believes that eliminating these specific formatting rules will reduce administrative burden.

The Board also proposes to make a minor technical amendment to § 708a.305(f) by removing redundant language. The rule currently requires communications to be written "in a manner that is simple and easy to understand. Simple and easy to understand means the communications are written in plain language..." This proposal would remove specific plain language requirements. This change improves the clarity and conciseness of the regulation.

The Board invites public comment on these proposed changes. The Board is particularly interested in comments on whether removing the prescriptive definitions and formatting requirements would allow credit unions to provide more effective disclosures to members.

C. Elimination of Non-Regulatory Guidance in Mergers

Finally, the Board proposes to improve the clarity and function of its regulations by removing another section that only provides non-binding guidance. The Board proposes to eliminate § 708a.312, “Voting guidelines,” in its entirety.

This section does not establish any mandatory requirements; rather, it explicitly states that its contents are “guidelines as suggestions to help a credit union obtain a fair and legal vote.” It offers advice on matters such as the applicability of state law, determining voter eligibility, and scheduling meetings. The provision itself acknowledges its advisory nature and, while such guidance can be helpful, the presence of non-binding guidance within a body of mandatory rules can create confusion for regulated entities, blurring the line between what is required and what is merely recommended. Removing this section will streamline the regulatory text, making it clearer for credit unions to understand their legal duties.

The Board seeks public comment on the proposed removal of § 708a.312. Specifically, the Board asks whether removing these non-binding guidelines from the regulation would improve clarity and whether this information would be more effectively communicated through other, non-regulatory channels.

III. Regulatory Procedures

A. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted

on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).

In summary, the Board is proposing to amend its regulations governing the merger of insured credit unions into banks. This proposed rule would eliminate certain prescriptive procedural, disclosure, and communication requirements. This action is necessary to reduce unnecessary regulatory burdens and provide credit union boards of directors with greater flexibility to exercise their business judgment. The intended effect of these changes is to simplify compliance for credit unions, reduce administrative costs, and modernize the merger process, while ensuring members receive clear and effective disclosures.

B. Executive Order 12866, 13563, and 14192

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.³ Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.⁴ OMB has determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866. The NCUA expects the proposed rule to produce modest cost savings and, if finalized as proposed, is expected to be a deregulatory action for the purposes of Executive Order 14192.

³ 58 FR 51735 (Oct. 4, 1993).

⁴ 76 FR 3821 (Jan. 21, 2011).

C. The Regulatory Flexibility Act

The Regulatory Flexibility Act⁵ generally requires preparation of an initial regulatory flexibility analysis and a final regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The NCUA reviewed this regulation under the provisions of the Regulatory Flexibility Act. This rule is narrow in scope and purely deregulatory. Therefore, the NCUA certifies that this rule, if finalized, would not have a “significant economic impact on a substantial number of small entities.”

D. The Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and notwithstanding any other provision of law, a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The PRA applies to rulemakings in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information-collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. OMB Control Number 3133-0182 is the collection assigned for merger transactions. The NCUA has determined that the changes described in this notice do not revise the information collection as defined by the PRA.

E. Executive Order 13132 on Federalism

Executive Order 13132 encourages certain agencies to consider the impact of their actions on state and local interests. The NCUA, an agency as defined in 44 U.S.C. § 3502(5), complies with the executive order to adhere to fundamental federalism principles. The proposed rule does not have substantial direct effects on the states, on the

⁵ 5 U.S.C. 601 *et seq.*

relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The proposed rule would remove targeted prescriptive requirements that apply to merging federally insured credit unions, including federally insured, state-chartered credit unions. The proposal would not change the fundamental requirements of member notice or impose new requirements on state-chartered credit unions or state regulatory agencies. The NCUA has therefore determined that this proposed rule will not constitute a policy that has federalism implications for purposes of the executive order.

F. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act.⁵ The proposed rule would apply to notices provided to consumers but is not intended to change fundamental member rights. Therefore, any effect on family well-being, including financial well-being, is expected to be indirect, at most.

List of Subjects

12 CFR Part 708a

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

By the National Credit Union Administration Board, this 20th day of April 2026.

Melane Conyers-Ausbrooks,
Secretary of the Board.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 708a as follows:

PART 708a – BANK CONVERSIONS AND MERGERS

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

Authority: 12 U.S.C. 1766, 1785(b), and 1785(c).

§ 708a.301 [Amended]

2. Revise § 708a.301 by removing “*Clear and conspicuous* means text in bold type in a font size at least one size larger than any other text used in the document (exclusive of headings), but in no event smaller than 12 point.”

§ 708a.303 [Amended]

3. Revise § 708a.303(b)(1) to read as follows:

(b) * * *

(1) No later than 30 days before a board of directors votes on a proposal to merge, it must post a notice in a clear and conspicuous fashion in the lobby of the credit union's home and branch offices and on the credit union's Web site and a member's home banking landing page, if it has one. If the notice is not on the home page of the Web site, the home page must have a clear and conspicuous link, visible on a standard monitor without scrolling, to the notice.

4. Revise and republish § 708a.304(d) to read as follows:

§ 708a.304 Notice to NCUA and request to proceed with member vote.

* * * * *

(d) *Due diligence.* The NIMRA must include a description of all the credit union’s due diligence in determining that the merger satisfies the factors contained in section 205(c) of the Act. In particular, the NIMRA must describe how the board determined that this merger was in the best interests of the credit union’s members. The description must include all information relied upon by the credit union in determining the merger value of the credit union, the amount of any payment to be made by the bank to the credit union's members (the “merger payment”), and, if that merger payment is less than the merger value of the credit union, an explanation why the merger and the merger partner selected is in the best interests of the members. The description must include an explanation of the distribution formula by which the merger payment will be distributed among the credit union’s members.

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5. Amend § 708a.305 by:

- a. Removing and reserving subparagraph (e)(2); and
- b. Revising subparagraph (f).

The revisions read as follows:

§ 708a.305 Disclosures and communications to members.

* * * * *

(e)

(1) * * * * *

(2) [Removed and reserved]

(f) All written communications from a merging credit union to its members regarding the merger must be written in a manner that is simple and easy to understand. Simple and easy to understand means the communications are written in plain language designed to be understood by ordinary consumers, and uses clear and concise sentences.

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§ 708a.312. [Removed]

6. Remove § 708a.312.

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