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(d) **Independent entity** means a company with experience in conducting corporate elections. No official or senior manager of the credit union, or the immediate family members of any official or senior manager, may have any ownership interest in, or be employed by, the entity.

(e) **Insurance and insured** refer to primary share or deposit insurance. These terms do not include excess share or deposit insurance as referred to in part 740 of this chapter.

(f) **Merging credit union** means the credit union that will cease to exist as an operating credit union at the time of the merger.

(g) **Nonfederally-insured** means insured by a private or cooperative insurance fund or guaranty corporation organized or chartered under state or territorial law.

(h) **Share insurance communication** means any written communication, excluding the forms in Subpart C of this Part, that is made by or on behalf of a federally-insured credit union that is intended to be read by two or more credit union members and that mentions share insurance conversion or termination. The term:

1. Includes communications delivered or made available before, during, and after the credit union’s board of directors decides to seek conversion or termination.

2. Includes, but is not limited to, communications delivered or made available by mail, e-mail, and internet website posting.

3. Does not include communications intended to be read only by the credit union’s own employees or officials.

(i) **State credit union** means any credit union organized and operated according to the laws of any state, the several territories and possessions of the United States, or the Commonwealth of Puerto Rico. Accordingly, **state authority** means the appropriate state or territorial regulatory or supervisory authority for any such credit union.

(j) **Terminate, termination,** and **terminating**, when used in reference to insurance, refer to the act of canceling federal insurance and mean that the credit union will become uninsured.

(k) **Uninsured** means there is no share or deposit insurance available on the credit union accounts.

Subpart A—Mergers

§ 708b.101  Mergers generally.

(a) In any case where a merger will result in the termination of federal insurance or conversion to nonfederal insurance, the merging credit union must comply with the provisions of subparts B and C of this part in addition to this subpart A.

(b) A federally-insured credit union must have the prior written approval of the NCUA before merging with any other credit union.

(c) Where the continuing credit union is a federal credit union, it must be in compliance with the chartering policies of the NCUA.

(d) Where the continuing or merging credit union is a state credit union, the merger must be permitted by state law or authorized by the state authority.

(e) Where both the merging and continuing credit unions are federally-insured and the two credit unions have overlapping fields of membership, the continuing credit union must, within three months after completion of the merger, either:

1. Notify all members of the continuing credit union of the potential loss of insurance coverage if they had overlapping membership,

2. Notify all individuals and entities that were actually members of both credit unions of the potential loss of insurance coverage, or

3. Determine which members of both credit unions may actually have uninsured funds six months after the merger and notify those members of the potential loss of insurance coverage.

§ 708b.102  Special provisions for federal insurance.

(a) Where the continuing credit union is federally-insured, the NCUSIF will assess a deposit and a prorated insurance premium (unless waived in whole or in part for all insured credit unions during that year) on the additional share accounts insured as a result of the merger of a nonfederally-insured or uninsured credit union with a federally-insured credit union.
(b) Where the continuing credit union is nonfederally-insured or uninsured but desires to be federally-insured as of the date of the merger, it must submit an application to the appropriate Regional Director when the merging credit union requests approval of the merger proposal. If the Regional Director approves the merger, the NCUSIF will assess a deposit and a prorated insurance premium (unless waived in whole or in part for all insured credit unions during that year) on any additional share accounts insured as a result of the merger.

(c) Where the continuing credit union is nonfederally-insured or uninsured and does not make application for insurance, but the merging credit union is federally-insured, the continuing credit union is entitled to a refund of the merging credit union’s NCUSIF deposit and to a refund of the unused portion of the NCUSIF share insurance premium (if any). If the continuing credit union is uninsured, the NCUSIF will make the refund only after expiration of the one-year period of continued insurance coverage noted in paragraph (e) of this section.

(d) Where the continuing credit union is nonfederally-insured, NCUSIF insurance of the member accounts of a merging federally-insured credit union ceases as of the effective date of the merger.

(e) Where the continuing credit union is uninsured, NCUSIF insurance of the member accounts of the merging federally-insured credit union will continue for a period of one year, subject to the restrictions in section 206(d)(1) of the Act.

§ 708b.103 Preparation of merger plan.

(a) Upon the approval of a proposition for merger by the boards of directors of the credit unions, the two credit unions must prepare a plan for the proposed merger that includes:

1. Current financial statements for both credit unions;
2. Current delinquent loan summaries and analyses of the adequacy of the Allowance for Loan and Lease Losses account;
3. Consolidated financial statements, including an assessment of the generally accepted accounting principles (GAAP) net worth of each credit union before the merger and the GAAP net worth of the continuing credit union after the merger;
4. Analyses of share values;
5. Explanation of any proposed share adjustments;
6. Explanation of any provisions for reserves, undivided earnings or dividends;
7. Provisions with respect to notification and payment of creditors;
8. Explanation of any changes relative to insurance such as life savings and loan protection insurance and insurance of member accounts;
9. Provisions for determining that all assets and liabilities of the continuing credit union will conform with the requirements of the Act (where the continuing credit union is a federal credit union); and
10. Proposed charter amendments (where the continuing credit union is a federal credit union). These amendments, if any, will usually pertain to the name of the credit union and the definition of its field of membership.

(b) [Reserved]

§ 708b.104 Submission of merger proposal to the NCUA.

(a) Upon approval of the merger plan by the boards of directors of the credit unions, the credit unions must submit the following information to the Regional Director:

1. The merger plan, as described in this part;
2. Resolutions of the boards of directors;
3. Proposed Merger Agreement;
4. Proposed Notice of Special Meeting of the Members (for merging federal credit unions);
5. Copy of the form of Ballot to be sent to the members (for merging federal credit unions);
6. Evidence that the state’s supervisory authority approves the merger proposal (for states that require such agreement before NCUA approval);
7. Application and Agreement for Insurance of Member Accounts (for continuing state credit unions desiring to become federally-insured);
8. If the merging credit union has $50 million or more in assets on its latest call report, a statement about whether