PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.51–3, paragraph (c) is amended by adding, in alphabetical order under the heading New Jersey, an entry for Middlesex and Union Counties to read as follows:

§ 301.51–3 Quarantined areas.

* * * * *

(c) * * *

New Jersey

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Middlesex and Union Counties. That portion of the counties bounded by a line drawn as follows: Beginning at the intersection of St. Georges Avenue and Stiles Street; then east along Stiles Street to Elizabeth Avenue; then north on Elizabeth Avenue to Wood Avenue; then east on Wood Avenue to the east side of the New Jersey Turnpike right-of-way; then south along the east side of the New Jersey Turnpike right-of-way to Marshes Creek; then southeast along Marshes Creek to the Rahway River; then west along the south side of the Rahway River to Cross Creek; then south along Cross Creek through the wetlands to Peter J. Sica Industrial Drive; then east and south on Peter J. Sica Industrial Drive to Roosevelt Avenue (State Route 602); then west on Roosevelt Avenue to Port Reading Avenue (State Route 604); then west southwest on Port Reading Avenue to the Conrail railroad; then north and west along the Conrail railroad right-of-way to the NJ Transit railroad right-of-way; then north and northwest along the NJ Transit railroad right-of-way to the south branch of the Rahway River; then west along the south branch of the Rahway River to St. Georges Avenue; then north on St. Georges Avenue to the point of beginning.

* * * * *

Done in Washington, DC, this 24th day of January 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–1615 Filed 1–27–05; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708a

Conversion of Insured Credit Unions to Mutual Savings Banks

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is updating its rule regarding conversion of insured credit unions to mutual savings banks (MSBs). The amendments require a converting credit union to provide its members with additional disclosures about the conversion before conducting a member vote. The amendments also require the vote to be by secret ballot and conducted by an independent entity. Finally, the amendments require a federally-insured State credit union to provide NCUA with conversion related information about the law of the State where the credit union is chartered.

DATES: This final rule is effective January 28, 2005.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, at (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

The Credit Union Membership Access Act (CUMAA) was enacted into law on August 7, 1998. Public Law 105–21. Section 202 of CUMAA amended the provisions of the Federal Credit Union Act concerning conversion of insured credit unions to MSBs. 12 U.S.C. 1785(b). CUMAA required NCUA to promulgate final rules regarding charter conversions that were: (1) Consistent with CUMAA; (2) consistent with the charter conversion rules promulgated by other financial regulators; and (3) no more or less restrictive than rules applicable to charter conversions of other financial institutions. NCUA issued rules in compliance with this mandate. 63 FR 65532 (November 27, 1998); 64 FR 28733 (May 27, 1999).

Since the enactment of CUMAA, NCUA has become concerned that many credit union members do not appreciate the effect a conversion may have on their ownership interests in the credit union and voting power in the MSB. In February 2004, NCUA amended part 708a to require a converting credit union to disclose additional information to its members to better educate them regarding the conversion. 69 FR 8548 (February 25, 2004). NCUA solicited public comment as part of that rulemaking. Some commenters suggested that, among other things, NCUA should have imposed more disclosures and requirements on converting credit unions. Many offered specific suggestions. NCUA noted at that time that many of those suggestions deserved further consideration but were beyond the scope of that rulemaking and would have to be considered in a future rulemaking. In July 2004, NCUA issued a proposed rule with request for comments to address some of those suggestions and other ongoing concerns NCUA has in connection with protecting members' interests in the conversion process. 69 FR 46111 (August 2, 2004).

B. Discussion

CUMAA provides that an insured credit union may convert to an MSB without the prior approval of NCUA, but it also requires NCUA to administer the member vote on conversion and review the methods and procedures by which the vote is taken. This is reflected in NCUA's conversion rule. The rule requires a converting credit union to provide its members with written notice of its intent to convert. 12 CFR 708a.4. It also specifies that the member notice must adequately describe the purpose and subject matter of the vote on conversion. *Id.* In addition, a converting credit union must notify NCUA of its intent to convert. 12 CFR 708a.5. The credit union must provide NCUA a copy of its member notice, ballot, and all other written materials it has provided or intends to provide to its members in connection with the conversion. *Id.*

A converting credit union has the option of submitting these materials to NCUA before it distributes them to its members. *Id.* This enables the credit union to obtain NCUA's preliminary determination on the methods and procedures of the member vote based on NCUA's review of the written materials. NCUA believes its review of these materials is a practical and unintrusive way of fulfilling, at least part of, its congressionally mandated responsibility to review the methods and procedures of the vote.

If NCUA disapproves of the methods and procedures of the member vote after the vote is conducted, then NCUA is authorized to direct a new vote be taken. 12 CFR 708a.7. NCUA interprets its responsibility to review the methods and procedures of the member vote to include determining that the member notice and other materials sent to the members are accurate and not misleading, all required notices are timely, and the membership vote is conducted in a fair and legal manner.

A charter conversion has consequences that may not surface for a

number of years and are often not apparent at the time of conversion to even the most astute members. As a result, members cannot make an informed decision about how the conversion will affect them unless their credit union provides them with this information.

NCUA is aware that credit unions are not providing some important conversion related information effectively to their members. This limits members' ability to make informed decisions about a conversion. NCUA also has become aware that many credit unions may not be equipped to conduct a proper member vote on conversion. Accordingly, NCUA is amending the conversion rule to require a converting credit union to provide additional disclosures to its members. Also, NCUA is providing guidelines to help converting credit unions better understand how they can satisfy the regulatory standard that the member vote be conducted in a fair and legal manner. In addition to the guidelines, NCUA is amending the rule to require the vote be conducted using secret ballots and an independent teller to ensure the integrity of the voting process and the privacy of each member's vote. Finally, NCUA is amending the conversion rule to require a federally-insured State credit union to provide NCUA with information about how the law of the State under which it is chartered relates to NCUA's conversion rule so that NCUA's review of the methods and procedures of the vote includes ensuring compliance with applicable State law.

C. Disclosures

A converting credit union can provide information to its members regarding any aspect of the conversion in any format it wishes, provided all communications are accurate and not misleading. NCUA only requires certain, minimal information be provided in the notice to members. Most converting credit unions choose to provide a great deal more information and, while NCUA recognizes this is a way to educate members, NCUA is concerned that members may be overwhelmed by the great volume of information. NCUA does not, however, wish to dissuade converting credit unions from communicating with their members or limit those communications.

To balance these competing interests, NCUA will continue to allow a converting credit union to communicate with its members as it sees fit, but will require that members receive a short, simple disclosure prepared by NCUA. This disclosure addresses: (1) Ownership and control of the credit union; (2) operating expenses and their effect on rates and services; (3) the effect of a subsequent conversion to a stock institution; and (4) the costs of conversion. NCUA believes members need to be particularly aware of these topics. NCUA recognizes these topics might be discussed elsewhere in a credit union's communications with its members, but NCUA is concerned that this information may get buried in the great volume of information being provided. Accordingly, a converting credit union must include this disclosure in a prominent place with each written communication it sends to its members regarding the conversion and must take specific steps to ensure that the disclosure is conspicuous to the member. To promote flexibility, a converting credit union may modify the disclosure with the prior consent of the Regional Director and, in the case of a State credit union, the appropriate State supervisory authority (SSA).

Officials of many converting credit unions indicate in their conversion materials that they are unable to raise capital quickly enough to operate their credit unions as they see fit, which often includes a desire to pursue rapid growth. These credit unions encourage their members to support the conversion to an MSB as a way to overcome this capital restraint. They do not, however, inform their members that the conversion process can be expensive and further deplete a credit union's capital. NCUA believes members deserve to know how much of their money will be spent on the conversion effort. Accordingly, NCUA is amending the conversion rule to require converting credit unions to disclose the costs of conversion as part of the above disclosure requirements. An accurate cost estimate must take into account conversion related expenses including printing fees, postage fees, advertising, consulting and professional fees, legal fees, staff time, the cost of holding a special meeting, conducting the vote, and other related expenses.

D. Guidelines for Conducting a Member Vote

A converting credit union must conduct its member vote on conversion in a fair and legal manner. A vote that does not satisfy this standard denies members their democratic right to decide the fate of their credit union and could result in a charter change without the true support of the members. The final rule includes guidelines to avoid these kinds of undesirable results. The guidelines address topics such as: (1) Understanding the relationship between Federal and State law; (2) determining voter eligibility; (3) holding a special meeting.

NCUA does not purport these guidelines are an exhaustive checklist that guarantees a fair and legal vote. Rather, the guidelines are suggestions that provide a framework that, if followed, will help a credit union fulfill its regulatory obligations. A converting credit union should use these guidelines in conjunction with its own independent analysis and planning to tailor the member vote to its particular circumstances.

E. Relationship Between State and Federal Law

Although NCUA's conversion rule applies to all conversions of federally-insured credit unions, federally-insured state credit unions may also be subject to State law on conversions. As stated in previous rulemakings, NCUA's position is that a State legislature or SSA may impose conversion requirements more stringent or restrictive than NCUA's. This position is included in the final rule. In fact, NCUA understands over half the States do not specifically permit conversions of credit unions to MSBs. Reflecting NCUA's support of the dual chartering system, NCUA will defer to a State regulator when appropriate on questions involving interpretation of State law.

When State law applies to a conversion, it can change the procedural and substantive requirements a converting credit union must satisfy. NCUA needs to understand how State law affects those requirements to fulfill its responsibility to review the methods and procedures of the member vote. Accordingly, NCUA requires a federally-insured state credit union to notify NCUA if the State law under which it is chartered permits it to convert to an MSB. The credit union also must inform NCUA if it relies for its authority to convert on a State law parity provision, a provision permitting a state credit union to operate with the same or similar authority as a federal credit union (FCU), and if its State regulatory authority agrees that it may rely on the parity provision for that purpose. Finally, if a federally-insured state credit union relies on a state parity provision for authority to convert, it is required to indicate its State regulatory authority's position as to whether Federal law or State law will control internal governance issues in the conversion such as the requisite membership vote for conversion and the determination of a member's eligibility to vote.

F. Secret Ballots and Third Party Tellers

NCUA understands that members, including those that are employees of the credit union, may be uncomfortable with a voting process that does not protect the privacy of their votes. NCUA is concerned this may lead some members to choose not to vote or to vote in a manner inconsistent with their true wishes. Accordingly, the final rule protects members' privacy by requiring a converting credit union to use a secret ballot and an independent entity to conduct the vote. NCUA requires that a converting credit union use a third party teller to conduct the vote meaning that a third party teller will be responsible for sending ballots, receiving and safe keeping ballots, verifying ballots, and tabulating the vote. Use of a third party teller enhances the integrity of the voting process and provides confidence that members, including employees, will have their votes remain confidential.

G. Written Materials

Since CUMAA, the conversion rule has required a converting credit union to provide NCUA with copies of all written materials it sends or intends to send to its members in connection with the conversion proposal. NCUA is not changing that requirement but is clarifying that it applies to all written materials, including electronic communications posted on Web sites.

H. Summary of Comments

NCUA received 42 comments regarding the proposed rule. Thirty commenters supported the proposal. One so strongly that it stated it was ''criminal'' for credit unions to convert and strip out of the credit union the reserves accumulated over time by many members and put them ''into the pockets of a very few individuals.'' All of the nine commenters who are members of a credit union whose recent conversion campaign failed supported the proposal and many of them indicated that, if the terms of the proposal were in place when their credit union was considering converting, they would have been better informed or the process would have been fairer to members.

Many of the proposal's supporters offered suggestions to improve the rule. For example, ten commenters offered various suggestions to revise the proposed disclosures. Six commenters suggested there should be more required disclosures beyond those proposed.

One of those commenters suggested that paid consultants and service providers be identified to the members and be required to disclose if they have opened an account at the credit union as a result of their involvement in the conversion. One of the conversion consultants stated that, if the costs of the conversion are to be disclosed, then the credit union should identify the name of the recipients of expenditures. NCUA believes the portion of the proposal that requires a converting credit union to disclose an itemized estimate of the costs of the conversion to its members helps to provide members with necessary information to understand and cast an informed vote on the conversion. NCUA also believes the suggestion that NCUA require a converting credit union to identify by name the recipients of expenditures as part of a detailed itemization of costs is worthy of further consideration. That requirement, however, as well as disclosure of the accountholder status of paid consultants and service providers, are beyond the scope of the proposal and are not adopted in this final rule.

One commenter suggested NCUA provide more voting guidelines than proposed. Another asked NCUA to clarify ''the extent to which the guidelines would be enforced.'' NCUA reiterates the voting guidelines are not regulatory requirements subject to enforcement. Rather, they are suggestions intended to help converting credit unions fulfill their regulatory obligation of conducting its member vote in a fair and legal manner.

Nine commenters stated that the proposed disclosure, which states ''Credit union directors and committee members serve on a volunteer basis,'' is not completely accurate because a number of States allow credit unions to compensate their board members while others are silent on the issue. NCUA is amending the disclosure to reflect these comments.

Seven commenters stated a converting credit union should not be legally required to use Robert's Rules of Order to conduct its special meeting on conversion or suggested there be flexibility to use other parliamentary procedures. One of these commenters also suggested NCUA require a converting credit union to hire an independent parliamentarian to run the meeting. Another commenter did not mention Robert's Rules of Order, but recommended the use of a certified parliamentarian. NCUA discusses the use of Robert's Rules of Order in the voting guidelines section of the proposal. As noted above, the guidelines are not regulatory requirements, and, therefore, a converting credit union is not legally required to follow them including using Robert's Rules of Order in conducting its special meeting relating to the member vote. NCUA recommends, however, that a converting credit union use appropriate parliamentary procedures to conduct its vote, and should enlist the services of an individual knowledgeable and skilled in those procedures. NCUA is revising the voting guidelines to clarify that Robert's Rules of Order are not the only parliamentary procedures a credit union should consider using for its member vote.

Twelve commenters, including the conversion consultants, banking trade organizations, and a bank that was formerly an FCU that had converted to an MSB and subsequently converted to a stock bank, opposed the proposal in general, stating it is inconsistent with CUMAA or obstructs credit unions' right to convert. NCUA fully supports a credit union's right to convert its charter but notes this right belongs to the members of the credit union. Members can only exercise that right in a meaningful way if their credit union provides them with information that is accurate and not misleading. NCUA is aware of the limitations CUMAA places on its authority to approve a conversion but is mindful of its responsibility to oversee the methods and procedures applicable to the member vote on conversion and protect the interests of credit union members.

Some of the commenters who opposed the proposal:

- Believe the disclosure regarding voting rights is inaccurate because an MSB could choose a ''one vote per member'' policy instead of allotting votes based on account balances,
- Highlighted that an MSB to stock conversion requires a number of steps scrutinized by other regulators and stated the disclosure regarding subsequent conversion to a stock institution is misleading and intended to discourage credit union members from voting for the conversion to an MSB,
- Believe NCUA acknowledges the proposal is intended to discourage conversions because NCUA reduced the estimated number of conversions per year in a Paperwork Reduction Act (PRA) filing associated with the proposed rulemaking, and
- Suggested the proposed requirement on state credit unions to provide NCUA with information about State laws affecting the conversion is burdensome or indicated NCUA does not have confidence in SSAs to perform their functions.

The fact that MSBs could choose a ''one vote per member'' policy instead

of allotting votes based on account balances is not what MSBs, in fact, usually choose to do. The disclosure regarding voting rights states that, in an MSB, account holders with larger balances ''usually'' have more votes and, thus, greater control. NCUA believes this is an accurate statement. Also, NCUA recognizes that additional steps and member votes are required to approve an MSB to stock institution conversion. This does not lessen NCUA's concern about protecting credit union members' interest in their credit union. Those additional steps and member votes, although possibly scrutinized by other regulators, occur only after the credit union has converted to an MSB and is on its way to converting to the stock form of ownership. Obviously, at that point, the credit union does not exist and the additional requirements can do nothing to enable a credit union member to make an informed decision on the initial conversion from a credit union to an MSB.

The disclosure regarding subsequent conversion to a stock institution is not misleading and not intended to discourage credit union members from voting for the conversion to an MSB. It states that, in a typical conversion to the stock form of ownership, the executives of the institution profit by obtaining stock far in excess of that available to the institution's members. This accurately reflects an executive's ability to obtain stock options, restricted stock or other forms of stock related compensation not available to members not employed by the credit union.

In the normal course of the rulemaking process, NCUA submitted a required PRA filing. In that filing, NCUA reduced the estimated number of conversions per year from a previous submission based on its experience with conversions over the past several years. NCUA would have made the same reduction in the PRA filing based on historical data even if this rule were not being considered.

The requirement on state credit unions to provide NCUA with information about State laws affecting the conversion is not burdensome and does not indicate any lack of confidence in SSAs to perform their functions. NCUA fully acknowledges that a State legislature or SSA may impose conversion requirements more stringent or restrictive than NCUA's. As noted above, when State law applies to a conversion, it can change drastically the procedural and substantive requirements a converting credit union must satisfy. It is essential for a converting credit union to understand both Federal and State requirements for compliance purposes and for NCUA to do the same to fulfill its responsibility to review the methods and procedures of the member vote as affected by State law. NCUA does not believe it is burdensome for a converting credit union to inform NCUA of State law that the credit union must obtain in any event to assure compliance with all applicable laws. NCUA works closely and cooperatively with SSAs in processing conversions and defers to SSAs in making determinations regarding State law. NCUA believes the subject requirement helps to promote cooperation among the regulators and a more informed converting credit union.

Three commenters disagreed with NCUA's statement that no conversion vote can be fair and legal if some members are improperly excluded. These commenters stated there is no statutory requirement for perfection and that a certain percentage of member exclusions should be tolerated if not the result of wrongful intent on the part of the converting credit union. Since CUMAA, NCUA has disapproved a converting credit union's methods and procedures applicable to the member vote on only one occasion. In that situation, voter disenfranchisement was widespread. NCUA will continue to take a pragmatic approach in reviewing member votes on conversion.

One commenter suggested a converting credit union should be required to prepare a comprehensive three-year business plan for the converted institution similar to the plan required by 12 CFR part 563b for MSBs proposing to convert to stock form. This commenter also stated the plan should be required to be sent to the credit union's members with the notice of intent to convert or the notice should explain how a member can obtain a free copy of the plan. This suggestion is beyond the scope of the proposal, but NCUA will consider it for future inclusion in the conversion rule.

Finally, commenters to previous amendments to the conversion rule have recommended NCUA require converting credit unions to provide members a meaningful way to share their opinions on the conversion and to disclose the views and concerns of the credit union's directors and officers who oppose the conversion. Four commenters to this rulemaking suggested there should be some mechanism in place for members to share their opinions on the conversion with each other and the credit union during the process. NCUA will continue to consider if this is practical and valuable and if it could be accomplished with minimal regulatory burden.

I. Effective Date of Final Rule

Generally, a final rule promulgated by NCUA is effective 30 days following its publication in the **Federal Register**. This final rule, however, is effective immediately upon publication because there is a strong public interest in having this consumer protection rule in place. First, this is necessary to ensure crucial disclosure information is provided to credit union members whose credit union has initiated or is about to initiate the conversion process, so the members may cast an informed and educated vote on the future existence of their credit union and their stake in it. Second, this will provide regulatory certainty to credit unions that are considering converting or beginning the conversion process within the next thirty days and enable them to better understand the regulatory requirements they must follow throughout the entirety of the process.

A converting credit union is required by statute and regulation to provide notice of its intent to convert to its members 90 days, 60 days, and 30 days before the member vote on conversion. 12 U.S.C. 205(b)(2)(C); 12 CFR 708a.4(b). It would be confusing for a converting credit union and its members if this rule became effective during that 90-day period as that would alter the regulatory requirements of the conversion in mid-process. That confusion about which regulatory requirements must be followed at a given point in the conversion process is eliminated for any recently initiated, soon to be initiated, and future conversions by making this rule immediately effective. Accordingly, for good cause, NCUA finds that, pursuant to 5 U.S.C. 553(d)(3), it would be impracticable and contrary to the public interest to delay the effective date of this rule for 30 days following publication. Therefore, this rule is effective immediately upon publication.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small credit unions, defined as those under ten million dollars in assets. This final rule amends the procedures an insured credit union must follow to convert to an MSB. Slightly over twenty credit unions have converted since 1995. NCUA anticipates no more than five credit unions per year will convert in the future and it is

unlikely that any will have less than ten million dollars in assets. Accordingly, the amendments would not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Part 708a contains information collection requirements. As required by the PRA, 44 U.S.C. 3507(d), NCUA previously submitted a copy of this regulation in proposed form as part of an information collection package to the Office of Management and Budget (OMB) for its review and approval of a revision to Collection of Information, Conversion of Insured Credit Unions to Mutual Savings Banks, Control Number 3133–0153.

NCUA estimated the average annual burden per converting credit union to be between 20 and 23 hours and that no more than five credit unions will convert per year. As a result, NCUA estimated the total annual collection burden to be no more than 115 hours. NCUA did not receive any comments addressing the accuracy or methodology for computing the burden. OMB approved the revision.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on State and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule would not have substantial direct effects on the States, on the connection between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 708a

Charter conversions, Credit unions.

By the National Credit Union Administration Board on January 13, 2005.

Mary F. Rupp,

Secretary of the Board.

■ For the reasons stated above, NCUA amends 12 CFR part 708a as follows:

PART 708a—CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

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

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

■ 2. Section 708a.4 is amended by adding three sentences at the end of paragraph (a) and adding paragraph (e) to read as follows:

§ 708a.4 Voting procedures.

(a) * * * The vote on the conversion proposal must be by secret ballot and conducted by an independent entity. The independent entity must be 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) A converting credit union must include the following disclosures with each written communication it sends to its members regarding the conversion. The disclosures must be offset from the other text by use of a border and at least one font size larger than any other text (exclusive of headings) used in the communication. Certain portions of the disclosures must be capitalized and bolded. A converting credit union may modify the disclosure with the prior consent of the Regional Director and, in the case of a state credit union, the appropriate state regulatory agency. The unmodified form of disclosure reads as follows:

The National Credit Union Administration, the federal government agency that supervises credit unions, requires [insert name of credit union] to provide the following disclosures.

1. **OWNERSHIP AND CONTROL.** In a credit union, every member has an equal vote in the election of directors and other matters concerning ownership and control. In a mutual savings bank, **ACCOUNT HOLDERS WITH LARGER BALANCES USUALLY HAVE MORE VOTES AND, THUS, GREATER CONTROL.**
2. **EXPENSES AND THEIR EFFECT ON RATES AND SERVICES.** Most credit union directors and committee members serve on a volunteer basis. Directors of a mutual savings bank are compensated. Credit unions are exempt from federal tax and most state taxes. Mutual savings banks pay taxes, including federal income tax. If [insert name of credit union] converts to a mutual savings bank, these **ADDITIONAL EXPENSES MAY CONTRIBUTE TO LOWER SAVINGS RATES, HIGHER LOAN RATES, OR ADDITIONAL FEES FOR SERVICES.**
3. **SUBSEQUENT CONVERSION TO STOCK INSTITUTION.** Conversion to a mutual savings bank is often the first step in a two-step process to convert to a stock-issuing bank or holding company. In a typical conversion to the stock form of ownership, the **EXECUTIVES OF THE INSTITUTION PROFIT BY OBTAINING STOCK FAR IN EXCESS OF THAT AVAILABLE TO THE INSTITUTION'S MEMBERS.**
4. **COSTS OF CONVERSION.** The costs of converting a credit union to a mutual savings bank are paid from the credit union's current and accumulated earnings. Because accumulated earnings are capital and represent members' ownership interests in a credit union, the conversion costs reduce members' ownership interests. As of [insert date], [insert name of credit union] estimates **THE CONVERSION WILL COST [INSERT DOLLAR AMOUNT] IN TOTAL.** That total amount is further broken down as follows: [itemize the costs of all expenses related to the conversion including printing fees, postage fees, advertising, consulting and professional fees, legal fees, staff time, the cost of holding a special meeting, conducting the vote, and any other expenses incurred].

■ 3. Section 708a.5 is amended by redesignating paragraph (b) as paragraph (b)(1), adding a sentence at the end of paragraph (b)(1), and adding paragraph (b)(2) to read as follows:

§ 708a.5 Notice to NCUA.

* * * * *

(b)(1) * * * The term ''written materials'' includes written documentation or information of any sort, including electronic communications posted on a Web site.

(b)(2) A federally-insured State chartered credit union must include in its notice to NCUA a statement as to whether the State law under which it is chartered permits it to convert to a mutual savings bank and include a legal citation to the State law providing this authority. A federally-insured State chartered credit union will remain subject to any State law requirements for conversion that are more stringent than those this chapter imposes, including any internal governance requirements, such as the requisite membership vote for conversion and the determination of a member's eligibility to vote. If a federally-insured State chartered credit union relies for its authority to convert to a mutual savings bank on a State law parity provision, meaning a provision in State law permitting a State chartered credit union to operate with the same or similar authority as a federal credit union, it must include in its notice a statement that its State regulatory authority agrees that it may rely on the State law parity provision as authority to convert. If a federally-insured state chartered credit union relies on a State law parity provision for authority to convert, it must indicate its State regulatory authority's position as to whether Federal law and regulations or State law will control internal governance issues in the conversion such as the requisite membership vote for conversion and the determination of a member's eligibility to vote.

* * * * *

■ 4. Add section 708a.11 to read as follows:

§ 708a.11 Voting guidelines.

(a) A converting credit union must conduct its member vote on conversion in a fair and legal manner. These guidelines are not an exhaustive checklist that guarantees a fair and legal vote but are suggestions that provide a framework to help a credit union fulfill its regulatory obligations.

(b) While NCUA's conversion rule applies to all conversions of federally insured credit unions, federally-insured State chartered credit unions (FISCUs) are also subject to State law on conversions. NCUA's position is that a State legislature or State supervisory authority may impose conversion requirements more stringent or restrictive than NCUA's. States that permit this kind of conversion could have substantive and procedural requirements that vary from Federal law. For example, there could be different voting standards for approving a vote. While NCUA's rule requires a simple majority of those who vote to approve a conversion, some States have higher voting standards requiring two-thirds or more of those who vote. A FISCU should be careful to understand both Federal and State law to navigate the conversion process and conduct a proper vote.

(c)(1) Determining who is eligible to cast a ballot is fundamental to any vote. No conversion vote can be fair and legal if some members are improperly excluded. A converting credit union should be cautious to identify all eligible members and make certain they are included on its voting list. NCUA recommends that a converting credit union establish internal procedures to manage this task.

(2) A converting credit union should be careful to make certain its member list is accurate and complete. For example, when a credit union converts from paper record keeping to computer record keeping, some members' names may not transfer unless the credit union is careful in this regard. This same problem can arise when a credit union converts from one computer system to another where the software is not completely compatible.

(3) Problems with keeping track of who is eligible to vote can also arise when a credit union converts from a federal charter to a State charter or vice versa. NCUA is aware of an instance where a federal credit union used membership materials that allowed two or more individuals to open a joint account and also allowed each to become a member. The federal credit union later converted to a State chartered credit union that, like most other State chartered credit unions in its State, used membership materials that allowed two or more individuals to open a joint account but only allowed the first person listed on the account to become a member. The other individuals did not become members as a result of their joint account. To become members, those individuals were required to open another account where they were the first or only person listed on the account. Over time, some individuals who became members of the federal credit union as the second person listed on a joint account were treated like those individuals who were listed as the second person on a joint account opened directly with the State chartered credit union. Specifically, both of those groups were treated as non-members not entitled to vote. This example makes the point that a credit union must be diligent in maintaining a reliable membership list.

(d) NCUA's conversion rule requires a converting credit union to permit members to vote by written mail ballot or in person at a special meeting held for the purpose of voting on the conversion. Although most members may choose to vote by mail, a significant number may choose to vote in person. As a result, a converting credit union should be careful to conduct its special meeting in a manner conducive to accommodating all members that wish to attend. That includes selecting a meeting location that can accommodate the anticipated number of attendees and is conveniently located. The meeting should also be held on a day and time suitable to most members' schedules. A credit union should conduct its meeting in accordance with applicable federal and State law, its bylaws, Robert's Rules of Order or other appropriate parliamentary procedures, and determine before the meeting the nature and scope of any discussion to be permitted.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30435 ; Amdt. No. 3114]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 28, 2005. The compliance date for each