



May 10, 2006
National Association of State Credit Union Supervisors
Statement for the Record
To the House Financial Services
Subcommittee on Financial Institutions and Consumer Credit
Hearing on Credit Union Conversions to Mutual Savings Banks

NASCUS¹ appreciates the opportunity to provide a Statement for the Record to the House Subcommittee on Financial Institutions and Consumer Credit about credit union conversions to mutual savings banks. NASCUS firmly believes that full and complete disclosure to credit union members is essential in any credit union conversion. We also firmly believe that state law and regulations should define the processes necessary for state credit union conversion.

Chartering Authority vs. Insurance Oversight

NASCUS strongly believes that state law should dictate the conversion process for state-chartered credit unions. There are many reasons that support our position.

The chartering authority for a state credit union is determined by state law. State law dictates the powers granted to a state credit union including approval authority for a conversion to another charter type. Further, state law determines the necessary processes for a conversion. A conversion is a function of a credit union's original charter, separate from insurance oversight.

In the Federal Credit Union Act, §205 (12 U.S. Code 1785) (the Act) Congress provides notice requirements and broad authority to the National Credit Union Administration (NCUA) to determine generally how a federally insured credit union converts to a mutual savings bank. Using this authority, NCUA promulgated Regulation Part 708a, a regulation detailing the process by which a federally insured credit union converts to a mutual savings bank.

Congress may have provided NCUA unnecessary overreach authority in this area. NCUA has the authority to supervise state-chartered credit unions with federal insurance to ensure safety and soundness. However, conversion procedures of these institutions exist with the original chartering authority, which in the case of state-chartered credit unions is determined by state law. NCUA's interest in a state credit union conversion should be limited to assurance that the members are fully informed about the future status of insurance provided for members' deposits.

¹ NASCUS is the professional association of the 48 state and territorial credit union regulatory agencies that charter and supervise the nation's 3,800 state-chartered credit unions.

This point may be further illustrated by the different roles of the regulatory and insurance functions. The state regulator is responsible for and oversees the chartering function for state-chartered credit unions. The National Credit Union Share Insurance Fund (NCUSIF) is managed by the NCUA, the federal credit union regulator, and provides insurance to the majority of state-chartered credit unions. For a federally chartered credit union, the chartering authority is the federal regulator, which is also the insurer. As the original chartering authority, in the case of state-chartered corporations, it is the role of the state law and regulations to determine proper procedure and disclosure for state-chartered credit union conversions.

Regulatory burden

While state credit union regulators and the NCUA agree on many procedural aspects of a state credit union conversion, this double oversight creates a regulatory burden for state credit unions. For example, to demonstrate how this is problematic for state-chartered credit unions, an action may be allowed in the Act and prohibited under state law or vice versa. This requires a state credit union to comply with two different laws that may be conflicting. Specific state laws and regulations that allow credit union conversions have been well thought out by state legislatures or regulators to encompass the intricacies of a credit union in an individual state. NASCUS believes it is a regulatory burden for state-chartered credit unions to follow both state and federal laws in the conversion process.

When state law or regulation allows for charter conversions, state-chartered credit unions have the right under those laws to convert to a different charter. Our records indicate that 21 states allow state-chartered credit unions to convert to another type of financial institution.² Conversions of a state credit union to a different charter type are not allowed in all states. When states allow for conversions, state law should determine the process of a conversion. Conversion rules and procedures should reside with the proper governmental chartering agency.

Going forward

NASCUS supports the rights of state legislatures and state regulators to determine the authorities granted to its state institutions. It is paramount that any new legislation being considered by Congress clearly recognizes the rightful authority of the states to determine chartering decisions for state-chartered credit unions. Until then, state credit unions are required to follow both state and federal laws, making the conversion process a regulatory burden for state-chartered credit unions.

NASCUS firmly believes that full and complete disclosure to credit union members is essential to any credit union conversion. Disclosure allows members to make an informed decision about a proposed conversion. When a state allows for credit union conversions, state law should dictate the necessary procedures.

We encourage this Subcommittee to analyze the laws that determine a conversion for state credit unions. Any process should uphold a state's right to determine the conversion process for its state credit unions while ensuring safety and soundness. Regulatory relief is needed in the state-chartered credit union conversion process.

² *NASCUS Profile*, 2003-2004 Edition