

Credit Union Screening Statute

12 USCS § 1785

§ 1785. Requirements governing insured credit unions

(a) Insurance logo.

(1) Insured credit unions.

(A) In general. Each insured credit union shall display at each place of business maintained by that credit union a sign or signs relating to the insurance of the share accounts of the institution, in accordance with regulations to be prescribed by the Board.

(B) Statement to be included. Each sign required under subparagraph (A) shall include a statement that insured share accounts are backed by the full faith and credit of the United States Government.

(2) Regulations. The Board shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) Penalties. For each day that an insured credit union continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than \$ 100, which the Board may recover for its use.

(b) Restrictions.

(1) Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board--

(A) merge or consolidate with any noninsured credit union or institution;

(B) assume liability to pay any member accounts in, or similar liabilities of, any noninsured credit union or institution;

(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the member accounts in such insured credit union; or

(D) convert into a noninsured credit union or institution.

(2) Conversion of insured credit unions to mutual savings banks.

(A) In general. Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act [[12 USCS § 1813](#)], without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

(B) Conversion proposal. A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

(C) Notice of proposal to members. An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert--

(i) 90 days before the date of the member vote on the conversion;

(ii) 60 days before the date of the member vote on the conversion; and

(iii) 30 days before the date of the member vote on the conversion.

(D) Notice of proposal to Board. The Board may require an insured credit union that

proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

(E) Inapplicability of act upon conversion. Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this Act [[12 USCS §§ 1751](#) et seq.].

(F) Limit on compensation of officials.

(i) In general. No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than--

(I) director fees; and

(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

(ii) Senior management official. For purposes of this subparagraph, the term "senior management official" means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32 (f) of the Federal Deposit Insurance Act).

(G) Consistent rules.

(i) In general. Not later than 6 months after the date of enactment of the Credit Union Membership Access Act [enacted Aug. 7, 1998], the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of Thrift Supervision and the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

(ii) Oversight of member vote. The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.

(3) Except with the prior written approval of the Board, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

(c) Considerations for waiver or enforcement of restrictions. In granting or withholding approval or consent under subsection (b) of this section, the Board shall consider--

- (1) the history, financial condition, and management policies of the credit union;
- (2) the adequacy of the credit union's reserves;
- (3) the economic advisability of the transaction;
- (4) the general character and fitness of the credit union's management;
- (5) the convenience and needs of the members to be served by the credit union; and
- (6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(d) Prohibition.

(1) In general. Except with prior written consent of the Board--

(A) any person who has been convicted of any criminal offense involving

dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not--

(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

(2) Minimum 10-year prohibition period for certain offenses.

(A) In general. If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is--

(i) an offense under--

(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

(B) Exception by order of sentencing court.

(i) In general. On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

(ii) Period for filing. A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

(3) Penalty. Whoever knowingly violates paragraph (1) or (2) shall be fined not more than \$ 1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.

(e) Security standards; reports; penalty.

(1) The Board shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed \$ 100 for each day of the violation.

(f) Share draft accounts; maintenance, loans, etc.

(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization

which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(g) Interest rates.

(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate or interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest.

(h) Emergency Merger. Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that--

(1) an emergency requiring expeditious action exists with respect to such other insured credit union;

(2) other alternatives are not reasonably available; and

(3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

(i) Emergency purchase of assets; conversion to insured deposits.

(1) Notwithstanding any other provision of this Act [[12 USCS §§ 1751](#) et seq.] or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.

(j) Privileges not affected by disclosure to banking agency or supervisor.

(1) In general. The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

(2) Rule of construction. No provision of paragraph (1) may be construed as implying or establishing that--

(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.