

801-10

Verne, B. Michael

From: [REDACTED]
Sent: Friday, July 15, 2011 1:55 PM
To: Verne, B. Michael
Subject: RE: Request for Confirmation
Attachments: 5310 Instructions.pdf

Mike,

Thank you for taking this much time with this matter. I have attached the 2011 NCUA 5310 Call Report Instructions for your review, but will walk through several points.

On the "Cash and Balances Due" section, totaling \$153,183,785, and which is detailed on Schedule A-1, for [REDACTED] that figure breaks down into:

- Cash in banks - \$2366
- Federal Reserve Banks - \$152,915,669
- Other Cash - \$4804
- Uncollected Funds from Federal Reserve Banks -- \$162,892
- Other Items due -- \$98,054

On the "Cash" items, the instruction for Schedule A-1 indicates that the "Federal Reserve Banks" entry (p. 6) is the "month-end balance of deposits in Federal Reserve Banks." That is, it is the cash of the corporate credit union that is not held at the credit union itself (petty cash, etc.), or cash held in bank deposit accounts, but cash of the corporate credit union held at a Federal Reserve Bank.

On the "Balances Due" items, [REDACTED] has a total of \$260,946 in Total Balances Due. The instructions (p. 7) break those items down into "Uncollected Funds from Federal Reserve Banks" ("month end cash items in process of collection from Federal Reserve Banks"), which for [REDACTED] totals \$162,892, and "Other Items Due" totaling \$98,054.

I also may be able to head off a question about one of [REDACTED] major "investment" items identified in line 4 of Schedule A-3A, the U.S. Central Bridge Obligations of \$74,090,590 (the major component of Line 1(f) on page 1 of the Schedule SFC "Total Non-FASB 115 Investments"). You may be familiar with the letter dated November 16, 1999, from [REDACTED] to Thomas Hancock confirming the PNO's position regarding credit union mergers. That letter, on page 2, under the heading "Investment Accounts," specifically refers to the limited investment authority of a corporate credit union set out in 12 CFR 704.5(c), and notes that the types of investment accounts a corporate credit union is authorized to have are exempt. Those investments include "capital accounts in the [REDACTED]" "[REDACTED]" was chartered and formed to assume the operations of [REDACTED] after it was placed into conservatorship by the NCUA in or around October 2010. So, it should stand to reason that the exemption referring to [REDACTED] in the 1999 letter should apply to investments in "[REDACTED]."

Again, thank you for the time you are taking with this matter. Please let me know if you have any further questions.

[REDACTED]

[REDACTED]

AGREE -
NOT REPORTABLE
DWH
7/18/11

[REDACTED]

[REDACTED]

[REDACTED]

From: Verne, B. Michael [mailto:MVERNE@ftc.gov]
Sent: Thursday, July 14, 2011 11:56 AM
To: [REDACTED]
Subject: RE: Request for Confirmation

We have not opined on what is excluded from a NCUA 5310 Call Report. It does not appear to break down the items in as much detail as the 5300 Report. What exactly are "balances due"?

From: [REDACTED]
Sent: Wednesday, July 13, 2011 4:23 PM
To: Verne, B. Michael
Subject: RE: Request for Confirmation

Mike,

It does not. "Natural person" credit unions file a NCUA 5300 Call Report. [REDACTED] is a "Corporate" credit union. Corporate credit unions do not file a 5300 Call Report, and their equivalent report is the 5310 Call Report.

A natural person credit union is one that you or I could join. A corporate credit union provides services to natural person credit unions, and a corporate credit union's members are the credit unions that do business with it.

The following link is to the NCUA site from where corporate credit union 5310 Call Reports can be accessed (note that only "corporate" credit unions are on this page). <http://www.ncua.gov/DataServices/Data/5310/5310rpt.aspx>.

[REDACTED]

[REDACTED]

From: Verne, B. Michael [mailto:MVERNE@ftc.gov]
Sent: Wednesday, July 13, 2011 2:52 PM
To: [REDACTED]
Subject: RE: Request for Confirmation

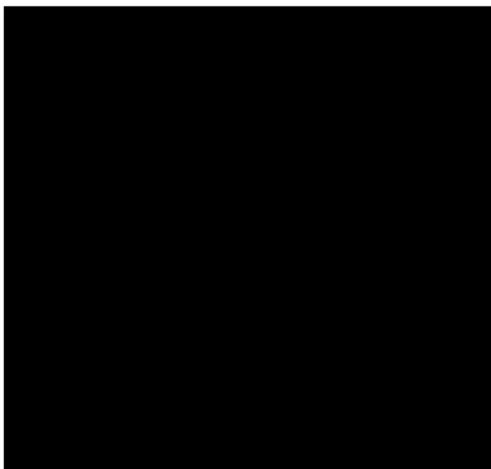
Does [REDACTED] file a NCUA 5300 call report? That is what you should be using.

From: [REDACTED]
Sent: Wednesday, July 13, 2011 10:13 AM
To: Verne, B. Michael
Subject: Request for Confirmation

Dear Mr. Verne,

I have attached a letter and an exhibit in hopes that you can confirm that the referenced merger involving credit unions is not a reportable transaction.

[REDACTED]



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[REDACTED]

[REDACTED]

July 13, 2011

VIA EMAIL ONLY

B. Michael Verne
Federal Trade Commission
Bureau of Competition
Premerger Notification Office
600 Pennsylvania Avenue, NW
Room 303
Washington, D.C. 20580

Re: Acquisition of [REDACTED]
[REDACTED] under supervision of National Credit Union
Administration

Dear Mr. Verne:

This firm represents [REDACTED] chartered corporate
credit union, in a proposed acquisition through merger of [REDACTED]
[REDACTED]

We are writing to you for your concurrence with our analysis of the application of the
size of transaction thresholds to the proposed merger under the Hart-Scott-Rodino premerger
notification provisions of 15 U.S.C. § 18a(a)(2).

As of its most recent NCUA 5310 Report, dated April 2011, [REDACTED]
[REDACTED] had assets of \$251,810,105. For the purposes of this analysis, it is assumed
that the assets reported in the NCUA 5310 Report will not be materially different from the credit
union's most recent regularly prepared financial statements.

In calculating whether the merger meets the Size of the Transaction test under 15 U.S.C.
§ 18a(a)(2)(B)(i), we believe that the assets listed below are properly excluded in determining
the size of the transaction. We are basing our analysis, in part, on prior staff informal
interpretations regarding similar transactions involving credit unions.

[REDACTED] Assets as of April 2011= \$251,810,105

Assets that we believe are excluded in the calculation of the Size of the Transaction would
include specifically the following items shown on [REDACTED]
[REDACTED] April 2011 NCUA 5310 Report, a copy of which we have attached:

[REDACTED]

[REDACTED]

Mr. B. Michael Verne

Page 2 of 2

July 13, 2011

1. Cash & Balances Due	\$153,183,785	(Line 1(a) -- Schedule Code A-1)
2. Total Investments	\$93,693,441	(Line 1(h) – Schedule Code A-3)
Total Exclusions	\$246,877,226	

Based on the foregoing, [REDACTED] reflects a total asset value of \$251,810,105 on its April 2011 NCUA 5310 Report. The total excluded assets included in that amount are \$246,877,226. The total assets, less the excluded assets, therefore, are \$4,932,879, which is below the transaction threshold of \$66,000,000 set forth in 15 U.S.C. § 18a(a)(2)(B)(i). Accordingly, the merging parties are not required to file a premerger notification under 15 U.S.C. § 18a.

Please contact me directly as to whether you agree with our conclusion with respect to this transaction. Your assistance is greatly appreciated.

Sincerely,

[REDACTED]

[REDACTED]