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**From:** Beverley Rutherford [mailto:beverley.rutherford@vacu.org]  
**Sent:** Thursday, August 14, 2008 5:40 PM  
**To:** \_Regulatory Comments  
**Subject:** VACU Comments on Proposed Rule Part 701.1

Thank you for the opportunity to comment on NCUA's proposed changes regarding eligibility requirements for underserved areas. I am responding on behalf of the largest state-chartered credit union in Virginia. While we are state-chartered, our regulatory bodies do look to NCUA rules when approving the addition of underserved areas for our credit union.

We have reviewed NCUA's proposed changes and offer the following comments and concerns.

First, the overall proposed changes in the process for adding underserved areas appear complex and burdensome. As legislators have encouraged us as credit unions to reach out to the underserved, the proposed changes would appear to have the opposite effect, and discourage credit unions from adding these areas into their fields of membership. At a time when credit unions are being burdened with additional legislative and regulatory burdens, we are unsure what has prompted NCUA to propose the complex changes in serving underserved groups. Further, should these proposed rules be issued in final form, credit unions may find it impossible to add these areas and provide the supporting documentation to meet these requirements without expert assistance and expense, thus deterring pursuit of areas that may have otherwise been a possibility prior to the modification of these rules.

We do not support the way NCUA would apply the economic distress criteria, including the requirement that a proposed area conform to county or census tract boundaries so that census tracts apply to areas within a metro area and counties apply to areas outside of a metro area. This complicated process is difficult to explain to potential members, who most likely are unaware of their census tract number, ultimately creating a barrier to join. It could also have the effect of demeaning and labeling those potential members, compared to those who may live in an adjacent census tract in the same city. Census tracts are not drawn by community, but by statistical information that may not correlate effectively to meet NCUA's criteria. Further, it would in effect make marketing and providing communication materials to these groups difficult if not impossible.

In addition, we find the way NCUA has proposed to address "significant unmet needs" very complex and complicated with the matrix requirement. Just because there is a presence of financial institutions in an area, this doesn't mean potential member needs would be met. We believe it is the value of services provided, not whether a physical presence or facility is there. Consumers should continue to have a choice for their financial needs including the availability of affordable credit union services regardless if other financial institutions are concentrated in the area.

One of the requirements in serving an underserved area is the requirement to establish a service facility. Currently Automated Teller Machines (ATMs) are not defined as a service facility. We

support an ATM being included in the definition of a service facility provided the credit union can demonstrate the underserved area is in close proximity to a nearby branch. In many rural areas, it is typical for consumers to drive great distances for many types of services, so the definition of "close proximity" should be subjective and credit unions afforded flexibility in meeting that definition.

We support NCUA's proposal that modifications to the current Chartering Manual apply prospectively; however, we see no compelling reason why pending applications be deferred until the rulemaking process is complete.

In summary, we understand NCUA's desire to clarify its rules for adding underserved areas; however, we do not support the rules in its current proposed form. Any clarification or changes should not bring an additional burden or impede credit unions' desire to reach out to underserved groups as these proposed changes would do.

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