

April 15, 2010

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: Comments on Proposed Rule IRPS 09-1

Dear Ms. Rupp,

The Georgia Credit Union League (GCUL) appreciates the opportunity to comment on NCUA's proposal to amend its chartering and field of membership manual to update its community chartering policies. As a matter of background, GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL serves approximately 164 credit unions that have nearly 1.8 million members. This letter reflects the views of our Regulatory Response Committee, which has been appointed by the GCUL Board to provide input into proposed regulations such as this.

GCUL commends the Agency's effort to revise the guidelines by which applications regarding community charter expansions are reviewed and considered. Key among the proposed changes are objective and quantifiable criteria to assist credit unions and NCUA in determining whether a well-defined local community (WDLC) exists for the purpose of charter and field of membership (FOM) expansions. We believe many of the proposed revisions will improve and streamline that process; while at the same time ensuring the integrity of the evaluation. However, while we believe the proposal begins to remove much of the subjectiveness and ambiguity from the current process, we believe certain components within the proposal leave room for further clarification and expansion. Detailed explanations of our views are noted in the paragraphs below.

Under NCUA's current FOM rules, a community credit union may qualify to charter or expand if the area to be served is a WDLC that is a single political jurisdiction, is comprised of multiple contiguous political jurisdictions, or is a rural district which meets the criteria NCUA has established. While it is not difficult to meet the standard for a single jurisdiction, the current rules make it much more difficult to demonstrate that multiple contiguous political jurisdictions are a WDLC.

Well-Defined Local Communities

Single Political Jurisdictions

Currently, as well as under the proposal, a credit union can be approved to serve a county, city, or smaller political jurisdiction, regardless of population size, without the burden of producing documentation demonstrating that smaller political jurisdictions are a WDLC. Not being required to produce exorbitant amounts of information to evidence that the desired area interacts in a community fashion removes the very subjective nature of evaluation currently in place for other types of expansion evaluations; most notably those for multiple political jurisdictions. GCUL supports the Agency's decision to leave the current process for evaluating a single political jurisdiction unchanged.

Multiple Political Jurisdictions

As noted above, when used solely on its own, the current narrative process for demonstrating a WDLC exists for applications involving multiple political jurisdictions can lead to a very subjective analysis by NCUA. This subjective nature leaves room for questions and challenges regarding the WDLC existence...occasionally leaving the Agency in a position of defending its analysis. While we believe that a single uniform analysis, statistical in nature, would lend itself favorably to both credit unions applying for this type of expansion as well as to NCUA when evaluating them, this type of evaluation does not come without its own problems. For that reason, we would advise the Agency to allow for a combination of statistical criteria as well as narrative criteria on a case-by-case basis for those applications that may not be so clear cut.

Under the proposal, an area will be considered a WDLC if all of the following four requirements are met:

- 1) The area is a recognized core-based statistical area (CBSA), or in the case of a CBSA with Metropolitan Divisions, the area is a single Metropolitan Division;
- 2) The area contains a dominant city, county or equivalent with a majority of all jobs in the CBSA or in the Metropolitan Division;
- 3) The dominant city, county or equivalent contains at least 1/3 of the CBSA's or Metropolitan Division's total population; and
- 4) The area has a population of no more than 2.5 million people.

In the proposal, the Board stated that when multiple political jurisdictions are present, an overly large population can detract from the cohesiveness of a geographic area. For that reason, the Board is proposing to cap a multijurisdictional area at 2.5 million or fewer people in order to qualify as a WDLC. The Board is proposing that population threshold because the Office of Management and Budget generally designates a metropolitan division within a CBSA that has a core of at least 2.5 million people. The Board noted that the established threshold is a logical breaking point in terms of community cohesiveness with respect to a multijurisdictional area. We disagree. As populations ebb and flow, it is our position that this number could unnecessarily prevent expansion in those areas where large numbers of people reside, yet still could be considered a WDLC. Urban revitalization in many metropolitan areas around the country is causing population numbers to increase greatly. Yet many of the residents in the areas live in multi-family units such as condominiums, apartment homes, etc. It is this type of

scenario that would cause community population numbers to rise, but not detract from the community cohesiveness of the area. Therefore, we would encourage the Board to consider raising the population threshold to 4 million.

Also, the Board acknowledges that not all areas of the country are the same and there may be a CBSA that does not contain a sufficiently dominant core area or contains several significant core areas. According to the Board, such situations also dilute the cohesiveness of a CBSA. For these reasons, the Board is proposing to require that a CBSA contain a dominant core city, county, or equivalent that contains the majority of all jobs and 1/3 of the total population contained in the CBSA in order to meet the definition of a WDLC. In our opinion, these criteria are too restrictive. Again, placing arbitrary caps and numbers in the rule prevents the ability to modify as locations and demographics of certain areas change.

NCUA's supplementary information noted that it analyzed 61 of the largest statistical areas in the United States. Under the proposal only 27 would qualify in their entirety but 34 would not qualify as a whole (smaller segments of these areas would qualify; grandfathered areas would also qualify.) In reviewing this fact, we believe that requiring credit unions to meet all four criteria unduly restricts expansion opportunities. Therefore, we would encourage the Agency to reduce the number of required criteria to two.

Similarly, we are concerned that the proposal does not include a form of appeals process for those cases that might be more the exception than the rule. We encourage the Board to include a mechanism that would allow for an appeals process.

Rural Districts

The NCUA Board is proposing to define a rural district as a contiguous area that has more than 50 percent of its population in census blocks that are designated as rural and the total population of the area does not exceed 100,000 persons. We believe the definition is too limiting and does not take into account situations where the population is spread out over large areas. In lieu of approving the proposed change, we would encourage the Agency to define rural districts as contiguous areas within a state that are outside a WDLC or are non-urban and that have a population of less than 500,000.

Marketing Plan Modifications

The Board is proposing to provide additional guidance regarding NCUA's marketing plan requirements. The proposal clarifies that a marketing plan must demonstrate, in detail how the credit union will implement its business plan to serve the entire community; the unique needs of the various demographic groups in the proposed community; how the credit union will market to each group, particularly the underserved; which community-based organizations the credit union will target in its outreach efforts; the credit union's marketing budget projections dedicating greater resources to reaching new members; and the credit union's timetable for implementation, not just a calendar of events. We believe these criteria are prudent when evaluating the ability of a credit union to serve a targeted area. However, the proposal also calls for the ability of NCUA to follow-up with an FCU every year for three years after it has been granted a new or expanded community charter, and at any other intervals NCUA believes appropriate, to determine whether it is

satisfying the terms of its marketing and business plans. Any FCU failing to satisfy those terms will be subject to supervisory action by NCUA.

We object to this portion of the proposal. In this scenario, it appears NCUA will police the approvals of community charter applications for a minimum of three years. We find no benefit in this policy. As areas change, it is likely that marketing plans originally submitted will need to be adjusted. For example, businesses may move, communities may expand, and demographics can certainly change. These types of circumstances can lead to the need for significant modification of both the business and marketing plans. Credit unions need to feel secure in knowing that plans can change and they will not be penalized for making changes as the need arises. Credit union leadership should not feel pressured to comply with an original plan or expect supervisory actions resulting from the failure to stay the course when it may not be practical.

It is our opinion that this type of policy could lead to business decisions by credit unions to not go into an area that it otherwise might have desired to serve. At a minimum, we would encourage NCUA to define the type of supervisory action that might be taken should it decide a credit union was not conducting business sufficiently similar to the proposed marketing plan. Alternatively, we would encourage NCUA to utilize resources dedicated to policing marketing plans be allocated to areas centered on safety and soundness.

Underserved Communities

While well intentioned, we believe the current rules and requirements regarding the addition of underserved areas is flawed.

Under the current rules, one of the requirements for approving an underserved area expansion is for the applying credit union to demonstrate that the proposed expansion area (for example, a census tract) is “underserved by other depository institutions.” This is in addition to the “significant unmet needs” requirement.

In order to demonstrate the “underserved by other depository institutions” criteria, the rule adopted the “concentration of facilities” method that requires a comparison of depository institutions within the non-distressed portion of the proposed area against such facilities within the entire area. When examining the concentration of depository institutions compared to the population of the relevant area (non-distressed portion/entire area), if the ratio of facilities-to-population within the non-distressed portion is greater than the ratio of facilities-to-population for the entire area, the area is considered “underserved by other depository institutions.”

Consider the case of Stephens County, Georgia. Stephens County has a total of 4 census tracts, only one of which is considered a distressed area (see below).

Census Tracts:	Population:
• 9701	7,173
• 9702	5,549
• 9703 (distressed according to CDFI)	6,666
• 9704	6,047

# Insured Institution Branches:	Concentration of Facilities Ratio:
• Tract 9701 = 1 branch per 1,793.25 people	4 (1 CU, 3 bank)
• Tract 9702 = 1 branch per 5,549 people	1 (1 bank)
• Tract 9703 = 1 branch per 666.60 people	10 (4 CU, 6 bank)
• Tract 9704 = 1 branch per 2,015.67 people	3 (1 CU, 2 bank)

As you can see, the only census tract in Stephens County that meets the CDFI distressed criteria (#9703) also happens to have the lowest facilities-to-persons ratio. This is the case because Stephens County is a mostly rural county with its population spread almost evenly throughout the county. However, the population in the ‘downtown’ area of the county just happens to be mostly low-income...those that need basic financial services provided by credit unions. Because it is also the County Seat, the downtown area is where most of the financial institutions happen to be located.

When looking further into the data, it can be noted that the institutions that are in the downtown area, in particular, the banks, have as their primary focus the commercial and business lending opportunities...not the individuals.

For example:

- Stephens Federal Bank: 30.37% of their March 2009 loan portfolio was in construction and land development and commercial RE loans. Another 3.47% of their portfolio is in commercial and industrial loans. This institution does not offer credit card loans.
- Regions Bank: 23.04% of their March 2009 loan portfolio was in the construction and land development and commercial RE loans. Another 10.99% was in commercial and industrial loans.
- Community Bank & Trust: 39.31% of their March 2009 loan portfolio was in the construction and land development and commercial RE loans. Another 6.5% was in commercial and industrial loans. Again, this bank did not offer credit card loans.
- Habersham Bank: 41.55 % of their portfolio was in construction and land development and commercial RE loans. Another 2.67% in commercial and industrial loans.
- Northeast Georgia Bank: 45.25% in construction and land development and commercial RE loans. Another 7.01% in commercial and industrial loans.

It is our belief that the requirement of “*underserved by other depository institutions*” is a major inhibitor to obtaining underserved area expansions for credit unions in rural areas of the country. We believe this to be the case because many of the low-income sections of a community are also within the downtown areas of many small towns. All too often, that happens to be where most banks that “serve” the county happen to have locations. Those same banks are most often in pursuit of the business sector, not the individual—the true underserved.

Additionally, we would encourage the Board to consider removing the prohibition regarding community charter credit unions wishing to add underserved areas to their field of membership. This prohibition often eliminates the opportunity for credit union membership, especially in rural areas of the country. Many times, areas designated as underserved are desired by credit unions with community fields of membership. In several cases, the only credit unions with the ability to

serve the areas also happen to have community charters. By prohibiting these credit unions from reaching into the underserved areas, the Agency is contributing to the continued inability of many people to obtain credit union membership and benefits.

For these reasons, we would encourage the Agency to consider removing the current criteria for adding Underserved Area Expansions. Instead, we believe that Agency should permit credit unions to submit narrative information evidencing the underserved needs of the desired area.

Field of Membership Issues in Emergency Mergers

NCUA may permit credit unions with dissimilar FOMs to merge in emergency situations. NCUA must determine that the credit union is either insolvent or in danger of insolvency before it makes the additional findings that an emergency exists, that other alternatives are not reasonably available, and that the public interest would be served by the merger. The FCU Act does not define the term, “in danger of insolvency” and until now no definition has existed.

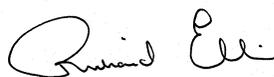
Under the proposal, NCUA believes that a credit union is in danger of insolvency if it falls into one or more of the following three categories:

- The credit union’s net worth is declining at a rate that will render it insolvent within 24 months.
- The credit union’s net worth is declining at a rate that will take it under two percent net worth within 12 months.
- The credit union’s net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months.

We would ask that NCUA clarify what is meant by ‘...*NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months.*’ This terminology leaves room for various interpretations. Further expansion on the type of criteria NCUA will review for making this determination would be beneficial.

Thank you for the opportunity to comment on the proposed amendments to the chartering and field of membership policies. If you have questions about our comments, please contact Cindy Connelly or me at (770) 476-9625.

Respectfully submitted,



Richard Ellis
Vice President/Compliance Services
Georgia Credit Union League