

Affinity Federal Credit Union's Response  
NCUA Associational Common Bond Proposed Rule

June 25, 2014

Affinity Federal Credit Union appreciates the opportunity to comment on NCUA's proposed rule regarding the associational common bond. To put Affinity's view into context, Affinity would like to emphasize its recognition that the Credit Union Membership Access Act (CUMAA) was enacted by Congress as a way to support healthy membership growth and to extend credit union "access" as the name of the Act makes clear. We know that NCUA likewise recognizes this congressional mandate and look forward to working with NCUA to protect and preserve credit unions' ability to grow.

1. *Does your credit union believe that the threshold requirement to determine whether the association was formed for the primary purpose of increasing the federal credit union's field of membership is necessary? Why?*

Associations should be viewed as any other select employer group (SEG). The SEG relationship with a credit union – whether the SEG be an employer or an association - was designed by NCUA regulation to be mutually beneficial to both the employer/association and the credit union:

- The SEG/association receives the benefit of offering credit union membership to its employees/members.
- Employees/association members obtain access to affordable financial services from a trusted provider.
- The credit union (CU) gains a new source of potential members and a channel through which it can help people, the very reason credit unions exist.

Adding SEG/CU relationships is the only method available to occupational CU's to grow their memberships. Any new rules that impede the attraction or retention of these relationships not only hurts the credit union but also hurts the SEGs/associations and their employee/members. Affinity has more than 70 associations in its field of membership (FOM), many that were added more than 10 years ago. Whether the organization has been in existence a month or many years at the point it is added to a CU's FOM is not relevant. The question is whether it is a legitimate association. If so, it should be allowed to be added to a credit union's FOM immediately and without qualifiers – the same as when an employer group is added to a credit union's FOM as a SEG.

Affinity would oppose any rules that would require Affinity to monitor an association's compliance to that association's own bylaws. Likewise, the punishment of a member of the credit union or association by potentially losing his or her affiliation because of how an association follows its own bylaws after it has been previously approved for a credit union's FOM by NCUA would, frankly, be applying an *ex post facto* standard to an association NCUA does not regulate, through its affiliation with a credit union that does not control the association's operations, to the detriment of the member of both who loses – without a voice – part of his equity property interest in both. This seems like an unnecessary overreach in order to corral a small handful of credit unions that may be overly aggressive in their advertising of eligibility through associations.

There are other entities that oversee the compliance of associations in adherence to their bylaws; it is unreasonable to expect CUs to serve that function. Also, it is excessive to establish a far reaching regulation on all federal credit unions when there are only a small number inappropriately advertising

membership eligibility through associations. The supervisory process, not the regulatory authority, of NCUA should be employed to address these examples which are the exception and not the rule.

2. *Does your credit union think that expanding the “totality of the circumstances” test to add an additional criterion re: corporate separateness is appropriate? Why?*

There are already many hurdles an association must scale before becoming eligible to be added to a CU's FOM. As an example, the NJ Coalition for Financial Education (NJCFE) had to make the following two small changes to the language in its bylaws before NCUA would consider adding NJCFE to Affinity's FOM:

- Change language under Article III section A – to state that “membership was open to any person or organizational representative interested in and committed to the purpose of the Coalition.”
- Change to Article III section B – to state that “individuals and organizations will register their membership at a time or fashion determined by the Board of Directors.”

Once it was clear what NJCFE had to do to become eligible to be added to Affinity's FOM, it took six months for NJCFE to communicate the proposed changes and to hold a meeting of the membership for the vote to take place. The association was willing to do so because affiliation with Affinity is a membership benefit for NJCFE that it – and its members – considered a value worth making some bylaw adjustments to secure. Yet, Affinity could not make that bylaw change for NJCFE. Only NJCFE could do so. In effect, because Affinity is regulated, NJCFE faced internal regulation of its independent affairs as well. This is not appropriate regulation by NCUA and is beyond its statutory authority, in our view.

The advertising by credit unions of how they utilize their SEG relationships with employers and associations is a proper use of the supervisory authority of NCUA to monitor through the examination process. Promulgating regulations that effectively seek to regulate associations not otherwise regulated by NCUA would be, from our perspective, inappropriate and potentially beyond the statutory authority of NCUA.

Adding additional hurdles to the already demanding rules and interpretations for associations to clear before becoming eligible to be added to a CU's FOM will just make it more difficult for credit unions to grow, hurt the associations that see value in credit union affiliation and – most importantly – hinder members of both in their desire for financial self-sufficiency through their financial service relationship with a credit union they are eligible to join because of their associational affiliation.

3. *What other categories of associations should NCUA automatically approve for inclusion in a federal credit union's FOM?*

Affinity agrees with the categories suggested in NCUA's proposal:

- Labor unions
- Scouting groups
- Electric cooperatives
- Homeowner associations
- Religious organizations, including churches
- Alumni associations

Other categories of associations that should also be considered for automatic approval:

- All co-operative groups
- Fraternal organizations

- Groups that promote diversity
- School sponsored organizations such as the PTA or PTO
- Community youth sports organizations
- Organizations that are closely tied to entities already in the credit union's field of membership for example
  - The AT&T Pioneers (AT&T is an existing SEG)
  - The Hillsborough Senior Citizens Club (Hillsborough Township is an existing SEG)
- Philanthropic organizations that exist to serve individuals or improve conditions in a market a credit union serves (for example, the Somerset County chapter of Habitat for Humanity)

4. *Are there any other aspects of NCUA's FOM rules that your credit union would like to see amended to improve the process for expanding a federal credit union's FOM?*

- One year threshold requirement for associations should be removed from proposal. Either an association qualifies or it does not. If it does not, it should not be approved until it is in compliance. If it does, a one year waiting period is punitive to the association, the credit union and the members of the association that might like to join the credit union.
- With the proliferation of technology (online access, mobile apps, remote deposit), eliminate the requirement for an organization to be located within a specific geographic area (currently limited to 25 mile radius around branch locations.) If the agency is truly committed to "regulatory modernization" as we hear announced by NCUA leadership, there is no area of modernization that would be more appropriate. While we acknowledge the statute requires NCUA to consider "reasonable proximity" for credit union service, the statute does not define the term "reasonable proximity." That is an NCUA responsibility and one that the agency should immediately address by modernizing.
- Expand eligible individuals from an approved SEG group to include contractors and 1099 employees in addition to regular employees

5. *Has your credit union considered adding an association to your FOM?*

- a. *What was your credit union's experience?*
- b. *Was your credit union successful?*
- c. *What aspect of the process was the most troublesome and/or burdensome for your credit union?*

Affinity has more than 70 associations that have been added to its FOM. Those 70 associations represent 13,466 members, \$83.5 million in loans and \$83.2 million in deposits. Examples include the NJ Society of CPAs and the NJ Gasoline Retailers Association. A good example of the mutual value that associations and credit unions can provide to each other is the NJ Coalition for Financial Education (NJCFE) mentioned earlier in this document. Affinity was looking for a financial education partner that could help develop financial education curricula. Affinity was also interested in finding a resource to which it could send consumers to find additional financial education information and materials. The NJCFE was interested in expanding its base of supporting organizations and credit unions seemed to be a natural fit.

In addition to joining forces with the NJ Credit Union League to help all NJ CUs with their financial education efforts, NJCFE agreed to apply to be added to Affinity's FOM. However as mentioned earlier, NJCFE bylaws did not fit all of NCUA's qualifications; as a result the NJCFE had to go through the process of amending its bylaws to meet NCUA's existing requirements. Even though they are not

regulated by NCUA, the association was willing to make those changes because of the value of credit union eligibility to members of an association – a value that is put into some peril by what many fear could be an over-zealous approach to implementing this regulation.

If the NJCFE was not willing to go through the significant effort (required under the *current* NCUA rules) to change its bylaws, all NJ CUs, Affinity and its members would never have received the benefits that this relationship now provides. NJCFE gives some examples of those benefits below. Affinity respectfully suggests that the associational common bond rules not be changed in ways that would impeded the attraction and retention of this type of associational relationship.



- NJCFE fostered a relationship with the credit unions of New Jersey to spread financial literacy. Through a partnership with Affinity FCU, NJCFE has over 2,000 members.
- A partnership with the NJ Credit Union League (NJCUL) has allowed NJCFE to subsidize webinars and events. Funding from NJCUL has increased the budget by more than 50%.
- NJCFE held its Teachers Teaching Teachers (T3) conference on April 11, 2013 with over 60 educators in attendance.
- NJCFE uses behavior-focused evaluation instruments to assess impact and incentives which are provided to increase the response rate, i.e. 89 percent of respondents at T3 used some of the information and/or teaching materials that were provided. Of the respondents, two-thirds reported reaching a total of 400 students, or an average of 67 students apiece.
- Since August 2013 NJCFE hosted seven free webinars geared toward students and teachers with a median attendance of 30 attendees for each.
- The Coalition hosted a free financial education symposium with 150 participants. Sessions were aimed at educators and included “The Culture of Personal Finance: What Finance Educators Need to Know,” “Consumer Credit Awareness,” and “Financial Literacy Education in Schools Update.”
- Since 2012, NJCFE has reached out to more than 12,000 students, teachers, and community members. In addition, more than 100,000 New Jersey residents have been reached through NJCFE’s resource sharing networks, made up of financial literacy newspapers, articles, and newsletters.
- The Coalition also works collaboratively with numerous organizations to develop and disseminate financial literacy education programs. For instance, the NJCFE recently collaborated with the Burlington County Library System to create a series of personal finance webinars from which individuals can participate in online, interactive courses that will teach financial literacy.
- NJCFE website lists multiple resources related to banking, credit unions and saving strategies.
- NJCFE displays the Affinity and NJCUL logo on all letterhead documents as well as in footer of all e-Mails and is featured on our redesigned website.
- Affinity/NJCUL logo is also displayed on signage/printed material at events.
- Affinity news is included in NJCFE weekly newsletter.
- NJCFE rolled out the third generation of its website, implementing more modern features and a more robust resource section. Since inception the website has seen over 800,000 visitors.

- NJCFE leaders and Board members also increase public awareness by writing Op Ed and newsletter articles.
- NJCFE awarded a grant to the largest credit union in NJ <https://www.affinityfcu.com/about-us/press-releases/2013/>
- NJCFE social media project poster displayed at Cooperative Extension Galaxy conference attended by 2,500 people.
- Reciprocal partnership with the NJ Department of Education (DOE) in which DOE provide financial literacy updates on initiatives and NJCFE members provide professional opinions on projects.
- NJCFE has worked with Junior Achievement of NJ to help staff their finance park which saw over 3,900 students participate with the goal of teaching real world skills and financial literacy to New Jersey children.
- NJCFE continues to strive towards our goal of supporting personal financial literacy needs of NJ residents, especially students. This year is marked by an expansion of events and offerings while lowering the cost of participating that have allowed educators to use results-focused teaching techniques.
- NJCFE awarded a grant to provide a series of financial education capacity-building programs for students, parents, and faculty/staff affiliated with the Cicely Tyson Middle/High School in East Orange, NJ.
- NJCFE's Cumulative grant total grew to \$423,200. <http://njcfe.org/wp-content/uploads/2014/01/NJCFE-Grants-Report-and-Updated-List-of-Grants-09-20.pdf>
- NJCFE expanded board of directors to include a community college professor and a credit union representative in an effort to bring more diverse interests to the table.
- Through a partnership with the Raritan Valley Community College (an Affinity SEG) NJCFE now has a northern regional office from which the coalition can better reach students and educators of central and northern New Jersey.

We strongly encourage NCUA to withdraw this proposal in its entirety and utilize its supervisory authority through the examination process to bring into compliance any inappropriate advertising of membership eligibility through associations.