

June 27, 2014

Mr. Gerald Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Chartering and Field of Membership Manual (RIN 3133-AE31)

Dear Mr. Poliquin:

On behalf of the more than 160,000 member-owners who have entrusted more than \$1.9 billion in assets, Western Federal Credit Union (Western) thanks the Agency for the opportunity to comment on the regulatory proposal concerning the ability of federal credit unions to have associations within its field of membership.

Western supports portions of the proposal and opposes other aspects of it and encourages the Agency to make improvements that will benefit credit unions and ultimately the American consumers who have a right to select their financial service providers.

Independence of Association from Federal Credit Union

Western supports the Agencies efforts to make sure that the association is separate from the federal credit union both directly and indirectly. This was made clear during the Congressional consideration of H.R. 1151 in 1998 which was signed into law by President Clinton to become the *Credit Union Membership Access Act*.

However, if the association is independent from the federal credit union and stands on its own, then the directors and/or management of the association should have the right to determine if sponsoring a credit union is in the best interests of the association and its members. Should the association request inclusion into the field of membership of a federal credit union and approved by the Agency, then it should remain within the credit union's charter and field of membership. If those circumstances have not changed, then the Agency must not be authorized to automatically revoke the association from the federal credit union's field of membership.

Each association is unique in structure and purpose. The Agency cannot use a "one-size fits all" test to determine if the association is independent from the federal credit union. The overall operation and structure must and should be

reviewed to see if meets “the totality of the circumstances” at both initial approval and any subsequent review.

Membership in the Association

Making a decision to join an association is the decision of the specific American consumer. That right must not be limited by a government agency. Regardless of who pays for the membership, the consumer voluntarily joins the association. If the association does not have an “introductory” period that limits the member from using all services/products offered by the association, then a government agency cannot impose its own restrictions on services. In the same way, the Agency does not place a timeframe on minimum employment status on a select group employee before that employee is eligible for membership (via the employer as a select group) in the appropriate federal credit union.

The United States Constitution limits the ability of Congress (and the government) to impose limitations on freedom of speech and association. The Agency must not limit such basic freedoms on consumers joining associations even for the purpose of qualifying for credit union membership.

Western supports disclosing to potential members the voluntary nature of joining a third-party association as part of the membership process. But the Agency must give the federal credit union authority to determine how that disclosure of information and the consumer’s positive election to join the association is made.

Western must oppose any efforts by the Agency to impose a geographic restriction on who can join an approved association on consumers electing to make a federal credit union their financial services provider. If the association itself does not have a geographic restriction, then the Agency cannot impose an artificial restriction on American consumers to join any association they choose. This freedom is guaranteed by the United States Constitution as described above.

Credit Union Membership Through Associational Membership

Western questions why the Agency has taken this approach which will limit the ability of American consumers to join federal credit unions. For many decades, the Agency has worked to encourage consumers to make their own choices for banking services. In fact, just recently, the Agency has used nationally-known consumer activist Suzy Orman to promote credit unions as a consumer-friendly provider of banking services.

Using such associations does not run contrary to the spirit or intent of the *Federal Credit Union Act*. Congress did not impose any additional restrictions on the use of associations during its consideration of H.R. 1151 (Credit Union Membership Access Act). Western strongly encourages the Agency to reject the efforts of the

banking trade associations to limit the ability of consumers to make their own choices as to who will provide financial/banking services to them.

Conclusion

Western supports independence of associations that desire to become a part of a federal credit union's field of membership. However, the Agency cannot impose artificial restrictions on how consumers join such associations which have a benefit of federal credit union membership pursuant to the free association rights contained within the United States Constitution.

If I can be of further assistance in this matter, please feel free to contact me at 310-536-5330.

Sincerely,

A handwritten signature in blue ink that reads "Greg Badovinac". The signature is written in a cursive style with a large initial "G".

Greg Badovinac
Assistant Vice President – Compliance & Governmental Relations