

June 30, 2014

Gerard S. Poliquin

Secretary of the Board

National Credit Union Administration

1775 Duke St.

Alexandria, Virginia 22314-3428

Filed via: regcomments@ncua.gov

Regarding: Comments on Notice of Proposed Rulemaking Regarding Associational Common Bond

Dear Mr. Poliquin,

Thank you for allowing me to share my thoughts with NCUA regarding the proposed changes to Associational Common Bonds. I appreciate the Board's review of the regulations in this area as I believe additional clarity and guidance is necessary. I commend NCUA for making this effort in addressing the abuse of using or creating an association primarily for the purpose of expanding credit union membership. Over the past year I have worked with several analysts in the Office of Consumer Protection to gain insight into the existing regulations and their understanding in their application to federal credit unions. Additionally, I have submitted observations to the OCP and to the Executive Director of Region V of what I believe display flagrant disregard to the regulations as they exist.

Great Basin Federal Credit Union is a geographically defined community charter for Washoe County in the state of Nevada. This is essentially the Reno/Sparks metropolitan area. Primarily, as a result of the recession Nevada has seen a number of large regional/national credit unions with multiple associational common bonds enter our markets. Some merged with Nevada credit unions and another has no branches at all here and has qualified through shared branching and obscure associational relationships.

I appreciate the difficulty of the task at hand in providing guidance, clarity and fairness to large and small; associational and geographically defined credit unions alike. No one wishes to unfairly hinder the growth of any credit union but my experience has shown there are those few that will push the envelope to make loans in areas contrary to regulatory intent, without regard to the impact on local credit unions or intent of supporting those communities.

Considerations are complicated by the evolution of how members are provided entrance to membership and access to credit union products and services through technological and cooperative

relationships that exist within the credit union industry. I am in support of providing recognition in the preparation of these regulations of online and mobile product/service convenience for all credit union members. Further, I am in support of recognizing Share Branching, both via brick and mortar branches and shared kiosk/ATM distribution methods in recognizing ability to serve. Recognition of the technological developments in our society must be included with awareness that any unnecessary restriction in this area would put credit unions as a whole at a competitive disadvantage in the overall retail market place.

Currently the OCP interpretation allows that a credit union that uses Shared Branching to determine ability to serve an area must have an ownership interest in a Shared Branching organization. I recommend altering the understanding to provide for active participation, without ownership. These organizations don't always allow additional ownership stock purchases and this will ensure that smaller credit unions have the ability to compete on the same level as the large.

Much of the abuse I have observed is result of unlimited geographic access, indirect lending and the use of obscure or frivolous associational relationships. Since IRPS 99-1, NCUA chartering policy has not included a geographic limitation. Yet regulations also provide that, "groups must be within reasonable geographic proximity of the credit union"; and "A *select group* as a whole will be considered to be with a credit union's service area when a majority of the person's in the select group live, work, or gather regularly within the service area...". Some abusers choose to ignore the proximity criteria, and there are those that advocate for removal of this statutory control entirely. This would provide multiple common bond chartered credit unions with indiscriminate access to any market including those serviced by geographically defined chartered credit unions. The use of an associational relationship that is outside of the State of membership need be held to a higher standard. For example, the use of Friends of Hobbs (an organization that provides support to a state park in Arkansas) would not be relevant to most/any Nevadan.

I commend NCUA on providing additional automatic approval of certain associational groups in the proposal, and providing examples that are clear and make sense. Of course the downside of automatic approvals has to do with those that abuse the process and intent. My understanding is that OCP investigates FOM propriety only if a complaint is submitted. Regrettably the lack of active monitoring and testing by NCUA of the adoption of additional associational groups, particularly in credit unions operating in multiple states, is the basis of some of the abuse.

I recommend that credit unions operating in multiple states be required to report membership, deposit and lending activity in every state it engages in these activities on their 5300 report. Membership acquisition in additional states should be tested during regular field examinations to determine associational group development and use. Currently, I do not believe this is being done. The addition of the activity reporting in the 5300 would not be excessive as most of these credit unions are very large and with significant resources. It will also expand the analytical information available in various market areas that has been lost with each additional merger across state lines.

Another area I commend NCUA for is in trying to ascertain that appropriate corporate separateness is maintained between the credit union and an association. I agree with the proposed criteria suggested by NCUA. I suggest additional clarity be given to the area of information provided by a credit union to an association. I have provided OCP with examples of credit unions taking a member name and basic information and simply providing the name and contact information to the association. At no time has the prospective member contacted the association or displayed interest in the association. The credit union is essentially providing the membership list to the association not the reverse. This practice lacks credibility of corporate separateness.

An additional issue that relates to corporate separateness is in the current OCP policy of allowing credit unions to pay a membership fee on behalf of the new member. I am in favor of this interpretation. Though a situation where credit unions pays a flat fee annually to the association in lieu of individual membership fees also strains the corporate separateness doctrine. What is the difference between a flat membership fee and a direct contribution to the association by the credit union? Additionally, a credit union should only pay an individual minimum membership fee (not to exceed one year?) to an association on behalf of the member. A membership fee to an association should be the same for prospective members whether via credit union or a general public solicitation. Any future evaluation and validation of shared membership between an association and an association would be difficult.

I agree with the proposed recommendation that if an association no longer meets the totality of circumstances test, the NCUA may remove the association from the credit union FOM. I do not believe that associational groups that no longer meet the definition of Qualified Associations be allowed to be grandfathered into a FOM. With that said, I don't believe it would be beneficial or appropriate for the existing members associated with an invalid association to have to disassociate from the credit union.

Thank you for allowing me to present my thoughts on this important proposed regulation.

Sincerely,

Dennis Flannigan

President/CEO

Great Basin Federal Credit Union