

June 25, 2014

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

Delivered Electronically

Subject: Chartering and FOM Manual – Associational Common Bond; RIN 3133-AE31

Dear Mr. Poliquin,

On Thursday, May 5, 2014, the NCUA published a notice of proposed rulemaking amending the associational common bond provisions of the NCUA's chartering and field of membership manual. The proposed rule would restrict credit unions from forming associations primarily for expanding credit union membership, put additional limitations on the totality of circumstances provision, and increase reviews of current associations, while simultaneously allowing certain groups to be added automatically to a Federal Credit Union's Field of Membership.

The Northwest Credit Union Association (Association)¹ is pleased to be able to offer comments on the National Credit Union Administration's (NCUA) Associational Common Bond proposal. To assist the NCUA in their effort to modernize Field of Membership (FOM) governance, I have carefully reviewed the proposal and sought input from our Regulatory Advisory Committee and other experts within our membership. Many Federal Credit Unions (FCUs) within our membership have identified the antiquated limits on Field of Membership expansion as one of the key barriers to a modern credit union system.

Federal Credit Unions that are chartered to serve a common bond or groups of common bonds are an important part of the credit union system. Many of these credit unions serve associations that add communities of color, geographic diversity, and shared common interests in the mission of an associational group. These Associations represent an important growth segment for many credit unions.

Background:

Our membership supports all aspects of the proposed rule designed to facilitate FOM expansion, but had significant concerns about anti competitive aspects of the proposal that

¹ The Northwest Credit Union Association is a regional trade association representing the interests of more than 200 credit unions and their six million consumer-members; institutions that employ and engage more than 10,000 people and hold more than \$50 billion in aggregate assets. The Association is a nonpartisan advocacy organization representing the interests of its member institutions on a variety of systemically important banking issues.

Credit unions affiliated with the Association are principally domiciled in the Northwest quadrant of the United States, but the Association also has members from the states of Alaska, Idaho, California and Hawaii. Learn more about the Association at www.nwcua.org.

could harm the overall growth of the credit union movement. We would encourage the NCUA to carefully consider the serious ramifications of limiting consumer choice and forcing consumers into higher interest rate loans, at a time when millions of Americans financial health continues to suffer. Our recommendations focus on improving the proposed rule in a way that will allow credit unions to continue to grow and thrive.

The Federal Credit Union Act gives the NCUA broad rulemaking authority on how to define associations, stating:

“Any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership”

At a time when consumer access to financial services is expanding and technology is breaking down geographic barriers that could allow even the smallest financial institutions to serve a global market place, the NCUA is proposing rules that would artificially limit the ability of credit unions to serve new members. Spending time, money and resources to develop anti competitive rules that will help predatory lenders increase market share is an inefficient use of NCUA resources, particularly considering that limiting the ability for credit unions to grow has the long term potential to add the risk to the National Credit Union Share Insurance Fund.

The NCUA should instead focus on modernizing the FOM regulations eliminating artificial barriers to access.

We would ask the NCUA to consider the following points:

1. Our credit unions strongly support the proposed automatic approval provision that will facilitate a smooth process for adding certain associations to a FOM. We would encourage the NCUA to consider expanding the list of associations designated for automatic approval.
2. Consider modernizing the definition of “Reasonable Geographic Proximity” given current technology and capabilities available for credit unions to provide excellent service to membership across broad geographic regions.
3. The totality of circumstances test should be streamlined not expanded.
4. Do not spend valuable agency resources on initiatives that would be detrimental to consumer choice.

We will elaborate on these issues further in our letter.

Specific Concerns:

Reasonable Geographic Proximity

Currently the NCUA chartering manual states:

“Associations must be within reasonable geographic proximity of the credit union. That is, the groups must be within the service area of one of the credit union's service facilities.”

As defined, service facilities include ATM and shared branching locations but preclude full service mobile banking. This section of the regulation should be updated.

Totality of Circumstances

In today's world, the ever increasing capacity to communicate is making it easier to form larger more interconnected common bonds of occupation or association. To send the appropriate message, the totality of circumstances test should explicitly encourage decision makers to err on the side of inclusion when applying the totality of circumstances test. The NCUA should remove the pre totality of circumstances test from the proposed rule. It is beyond the scope of a regulator to determine whether an association was created for the primary purpose of expanding field of membership, and the totality of circumstances test should be the sole determinant.

Associational Review

Credit unions need a regulatory environment that provides certainty and stability, in order to plan properly for the future. Existing Associations should be grandfathered and not subject to review outside of the process currently in place.

Conclusion

Spending time, money, and resources to develop anti competitive rules that will help predatory lenders increase market share is an inefficient use of NCUA resources, particularly considering that limiting the ability for credit unions to grow has the long term potential to add risk to the National Credit Union Share Insurance Fund.

In conclusion we ask that:

1. Prior to finalizing the rule, the NCUA put together a work group, charged with defining additional associations that meet the criteria for automatic approval.
2. To set the tone and send the appropriate message to credit unions, the NCUA should add to the final rule a clause that encourages the regional director to err on the side of inclusion when determining whether to grant a credit union application to add an Association.
3. The NCUA remove the pre totality of circumstances test as the NCUA is not qualified to make a determination on whether an Association is being formed primarily to expand. FOM, and the totality of circumstances test is sufficient.
4. Add full service mobile banking to the definition of a service facility.
5. The NCUA should grandfather all current Associations and exempt them from review.

The Association appreciates the opportunity to submit comments on the proposed amendments to the Associational Common Bond rule. We appreciate the NCUA's commitment to improving the regulatory landscape for credit unions. Thank you for the opportunity to comment on this issue. We would be pleased to answer any questions you may have.

Respectfully,

John Trull
Director of Regulatory Advocacy
Northwest Credit Union Association