

February 8, 2016

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

[Delivered Electronically](#)

**Subject:** Field of Membership; RIN 3133-AE50

Dear Mr. Poliquin,

On Thursday, November 19, 2015, the National Credit Union Administration (NCUA) board issued a proposal that would expand the Field of Membership (FOM) rules. The proposed amendments modernize the regulatory requirements that govern federal credit unions' field of memberships.

Our member credit unions are very supportive of the FOM proposal and we would like to thank all three NCUA Board Members, Chairman Debbie Matz, Board Member McWatters, and in particular Vice Chairman Metsger for championing the field of membership reform efforts. The proposed rule will facilitate the growth that many small and medium-sized credit unions need to survive in today's competitive marketplace. This proposal provides regulatory relief that gives credit union boards and management more flexibility to define their mission and market rather than having those decisions determined by Congress or the regulatory agency. In addition, it gives consumers the ability to choose a not-for-profit cooperative financial institution that often times offers higher rates on savings and lower rates on loans.

We are pleased to be able to offer our support for the NCUA's proposal, and would like to express our appreciation for the inclusive process that the NCUA employed in developing this proposal. This proposal is important to all credit unions, not only those with federal charters. Not only are there opportunities to claim parity if the federal rule is more progressive than state rules, but it also informs and supports our state-level efforts to keep our charters progressive and competitive.

### **General Comments**

We support a streamlined application process for adding membership. It should be strictly a business decision and the only requirement should be that credit unions show that the new field of membership request is compliant with the regulation and statute. No credit union has ever failed because its FOM was too large, but some credit unions have failed because their FOM was too small, and they were unable to find volunteers for their Supervisory Committee or their Board, or did not have the ability to generate loans or meet the demands of their members for new products and services.

A number of bank trade associations have written letters opposing this rule citing unfair advantages that credit unions enjoy. It is important to note that while these banks and their trade associations claim that credit unions have a competitive advantage, they are not choosing to convert to the credit union model. Additional bank arguments include that instead of granting FOM expansions the NCUA should focus on chartering new credit unions or opening new brick and mortar facilities. These are not only unreasonable suggestions that do not make good financial sense, they are suggestions that NCUA examiners oppose. Opposition letters have claimed that Congressional districts should not be considered well defined local communities. In Oregon, Washington and many other states, laws require that congressional boundaries are contiguous and do not divide communities of interest. Therefore, by definition congressional boundaries are well defined local communities.

In order to ensure that credit unions can grow and are sustainable in the 21st century, Field of Membership laws and regulations must be modernized. Technology advancements allow financial institutions to serve much broader geographic areas, while maintaining the local, cooperative, community based service that credit union members expect.

We have identified a number of positive aspects included in the proposed rule including:

### **Community Based**

- Combined Statistical Areas – A credit union will be able to serve up to 2.5 million people in a Combined Metropolitan Statistical Area (CMSA), as well as in a Metropolitan Statistical Area (MSA). Thus a credit union's field of membership could include parts of the Baltimore and Washington MSAs because they are all part of a larger Consolidated Metropolitan Statistical Area. A community charter will no longer be required to serve the "core area" of a MSA or CMSA.
- Bordering areas– A community charter will be allowed to expand into counties or other political jurisdictions which border (i.e. are immediately adjacent to) its existing FOM. Only a streamlined version of a marketing and business plan will be required for community charters expanding into bordering areas.
- Congressional Districts – Most members of Congress consider their Congressional Districts to be well defined local communities, thus a credit union will be allowed to use a single Congressional District as a FOM.
- Rural Districts – The population cap for a rural district (an area with an AVERAGE population density of under 100 people per square mile) will increase from 250,000 to 1 million. A rural district can include contiguous areas in the state where the credit union is headquartered as well as contiguous rural areas in states adjacent to the state where it is headquartered. New options will be provided to identify rural areas.

### **Seg Based:**

- Groups over 3,000 – There will be a streamlined process for approving groups between 3,000 and 5,000 potential members – which are too small to support a viable stand-alone single-SEG credit unions. The Association supports a 10,000 member threshold for groups that can self certify that they could not feasibly start a standalone credit union.
- Independent Contractors – Multi-SEG credit unions will be able to serve independent contractors who regularly work at a SEG.

- Reasonable Proximity – A SEG will be considered to be within reasonable proximity of a multi-SEG credit union if its members can make deposits, apply for loans, or receive loan proceeds through one of the credit union's service facilities, which can include its web site or a mobile app.
- Underserved Areas – The process for identifying and qualifying underserved areas will be streamlined and simplified. New options will be provided to identify and qualify underserved areas. The “facilities test” will no longer count facilities that do not serve the entire community.
- Industrial Parks/Shopping Malls/Office complexes – A multi-SEG credit union will be able to serve employees who work at an Industrial Park/Shopping Mall/Office Complex without having to get approval from each individual tenant as long as the tenant does not have more than 3,000 potential members.

### **Specific Suggestions**

This proposal is not a one size fits all solution. Instead there are menus of options, each of which will solve some credit unions' problems, and which as a group will provide everyone with relief.

### **Rural Credit Union**

There are a number of rural credit unions that are currently restricted by the 250,000 district population cap. These credit unions do not have the ability to expand to contiguous counties with similar cultures and long histories of inter-county dependence. Unless the rural district population cap is increased from 250,000 to 1 million as proposed, the rural credit union model will continue to be an unsustainable model. As of January 2013 less than a quarter of a percent of federal charters were operating under a rural charter. It is clear that when the Congress passed the Credit Union Membership Access Act (CUMAA) of 1998 they intended credit unions to operate under two distinct community charters that allowed greater access for membership to credit unions.

- 1) Well-defined local community, or neighborhood;
- 2) A rural district.

While still restrictive and in need of modernization, the NCUA established a definition for “well defined local community, or neighborhood” that resulted in a significant number of credit unions operating under this charter type. The rural charter has been attractive to only a fraction of federal credit unions, mainly because the numerical limit associated with the definition has been far too restrictive. Increasing the rural population cap to 1 million is a step in the right direction but we would encourage the NCUA to increase this number annually, pegged to state population growth or some other acceptable metric so that the rural community charter remains a relevant option now and into the future.

### **Well Defined Local Community or Neighborhood**

The proposed definitions of well-defined local community (WDLC) are within the scope of the FCUA for NCUA to define. Banker allegations of the NCUA overstepping its bounds are simply unfounded. The definition of a well defined local community needs to be modernized in order to be relevant in the 21<sup>st</sup> century. Many state-charters already give credit unions flexibility to

determine their field of memberships through regulations that adhere to the specific state's geography, and communities so that credit unions can best serve their state's citizens' financial service needs. As states have updated and modernized their charters, more federal charters limited by out of date Field of Membership restrictions have chosen to become state charters. While only a third of all credit unions are state chartered nationally, nearly half of the assets are held by state chartered credit unions. For the federal charter to remain relevant the NCUA should:

- 1) Permit FCUs that convert to a community charter to keep approved groups in their FOMs that are outside the boundaries of their new community. Currently there are federal credit unions that have both communities and SEGs in their FOMs because of an emergency merger. This precedent should be extended to conversions so credit unions could switch to the charter that best fits the needs of the credit union while allowing it to continue to serve and add new members from a SEG. A number of state rules and charters allow for this, giving those states a competitive advantage over the federal charter.
- 2) State chartered credit unions converting to FCUs should be allowed to keep their current FOMs as well and be allowed to expand based on NCUA's FOM regulations. There is precedence through the emergency merger process for FCUs to have fields of membership that would not be normally allowed under NCUA rules. If these credit unions can keep the members and field of membership that would not otherwise be permissible, then other credit unions should have this opportunity.
- 3) NCUA needs to address expansion by credit unions with grandfathered FOMs that do not fit under the current or proposed rules. Some credit unions through mergers and other reasons have FOMs that keep them from expanding and serving new members. Often, these are community chartered credit unions that serve FOMs that already fit into one of the WDLC categories. For these credit unions to expand, they need to drop communities or convert to a state charter. NCUA should develop ways for these credit unions with legacy FOMs to use the new regulations without dropping their old FOMs and potential consumers that still need financial services.
- 4) As recently as the third quarter of 2015, a federal credit union seeking to expand their field of membership reported dealing with a slow, costly and onerous process. During the approval process, language that was submitted by the credit union was changed, after months of waiting. This caused the credit union significant amounts of time and money. They sought a legal opinion to see if the approved language encompassed their original request. They sought the opinion because they were concerned that working with the NCUA would not result in a timely response. As a best practice for procedure and process it would be helpful to talk with the credit union during the application process and communicate why language changes are being made and how it impacts the request. At a minimum, the NCUA should communicate why changes are made and the impact of that language change in the final approval letter.

## **Conclusion**

In conclusion, the NCUA has fulfilled an obligation to the credit union system to modernize the Field of Membership rules which haven't been significantly updated in nearly two decades, since the passage of CUMAA. We strongly encourage the NCUA to expedite the finalization of this rule.

At the end of the day, allowing more consumers and small businesses a choice in the financial services marketplace is a win for the consumer. It supports healthy competition to ensure consumers are offered the best services, rates and fees.

We appreciate the NCUA's commitment to improving the regulatory landscape for credit unions. Thank you again for the opportunity to comment on this issue. We would be pleased to answer any questions you may have.

Respectfully,

A handwritten signature in black ink that reads "John Trull". The signature is written in a cursive, flowing style.

John Trull  
Director of Regulatory Advocacy  
Northwest Credit Union Association