



February 5, 2016

Sent Via Electronic Delivery: regcomments@ncua.gov

Gerald S. Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: RIN 3133-AE31 NCUA Field of Membership and Chartering Rules

Dear Mr. Poliquin:

On behalf of the Oregon Bankers Association ("OBA") and its membership of Oregon's state and national banks, we appreciate the opportunity to comment on the above-referenced proposed rules ("Rules") that would comprehensively amend field of membership and chartering requirements concerning federal credit unions. OBA has a number of concerns and would strongly urge the National Credit Union Administration ("NCUA") to withdraw the proposed Rules from further consideration.

1. The Rules Are Sweeping In Scope and Contrary to Congressional Intent

Background information accompanying the proposed NCUA Rules notes that, if enacted, the Rules "will modify the Board's [NCUA Board] policies affecting the definition of a local community, a rural district, and an underserved area; group members' proximity to multiple common bond FCU's [federal credit unions] when they expand... expansion of single common bond FCU's that serve a trade, industry or profession; and the process for applying to charter or expand an FCU." The practical effect of these changes, if adopted, would be to drastically expand federal credit unions' ability to increase membership beyond congressional intent.

Beyond the present Rules, OBA is troubled with what appears to be an emerging pattern with the NCUA. This is the second proposal in less than nine months in which the NCUA has issued extraordinarily broad rules, in terms of their practical impact, that are contrary to the fundamental purpose with which credit unions were established by Congress. The business lending proposal issued by the NCUA in July 2015, if adopted, would fundamentally change the

way in which credit unions are permitted to engage in business lending. It is not the NCUA's role to champion credit union growth beyond congressional intent, including into commercial banking activities, particularly through expansive rulemaking that is contrary to the fundamental purpose and mission with which credit unions were created.

The following is a non-exhaustive list of examples of how the Rules are contrary to congressional intent regarding credit unions and field of membership limitations.

- Congress understood that if community credit unions were to fulfill their public mission, there needed to be a legitimate shared bond among members, even amending the Federal Credit Union Act [FCU Act] in 1998, to include the term "local." Combined with the terms "well-defined," it is clear Congress intended to impose finite and narrow limits on the area that a community credit union may serve. The Rules go beyond any reasonable definition of "local" and "well-defined." The proposed rule treats a Combined Statistical Area and a Congressional District as a well-defined local community. Oregon's Second Congressional District, for example, is one of the ten largest districts in the country and includes almost two thirds of the state of Oregon, including eastern and southern Oregon. It is hard to think that the Second Congressional District could reasonably be considered a "well-defined, local community."
- The Rules would expand the rural district population limit by four times the current threshold from 250,000 to one million. Again, this strains the definition of "local" or "well-defined" past the breaking point.
- The Rules violate the congressional mandate to encourage the formation of new single bond credit unions. The FCU Act states, "[i]n general, the Board shall encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union." Congress deliberately instructed NCUA to keep credit unions focused on providing services to specific groups that lack other access to financial services.
- The Rules create a less burdensome process for multiple common bond federal credit unions to add a new group with up to 5,000 members, evading congressional intent to keep credit unions small and focused on providing services to consumers, particularly those of modest means.

The examples above illustrate that the Rules ignore congressional intent. This overreach would fundamentally alter existing field of membership requirements established by the FCU Act and should be withdrawn.

2. Membership Expansion Increases the Credit Union Tax Subsidy

As mentioned above, the Rules, if implemented, present an opportunity for tax-exempt credit unions to substantially increase their membership. A consequence of this unprecedented membership growth would be an expansion of the credit union tax subsidy provided by Congress, already valued at \$26.75 billion over the next 10 years¹.

Expansion of the credit union subsidy in this manner, at the expense of the federal budget and borne on the backs of other taxpayers -- including taxpaying community banks -- strengthens the argument that credit unions, and especially those whose activities are practically indistinguishable from banks, should be paying their fair share of taxes.

Conclusion

The proposed NCUA Rules represent considerable regulatory overreach, fly in the face of congressional intent with respect to limits on credit union field of membership, and strengthen calls on Congress to repeal the credit union industry's tax subsidy. The proposed Rules should be withdrawn from further consideration. Credit unions should focus on their core mission of providing services to those of modest means that share a common bond.

Thank you for the opportunity to comment on the proposed rules. If you have any questions, please feel free to contact me.

Very best regards,



Linda Navarro
President & CEO
Oregon Bankers Association &
Independent Community Banks of Oregon

¹ U.S Department of the Treasury, Office of Tax Analysis, November 11, 2015; <https://www.treasury.gov/resource-center/tax-policy/Documents/Tax-Expenditures-FY2017-11132015.pdf>.