



February 2, 2016

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

Re: Comment Letter to the Proposed Amendments to NCUA's Field of Membership and Chartering Manual 12 CFR Part 701

Dear Mr. Poliquin:

On behalf of the Mountain America Credit Union (MACU), I would like to thank you for the opportunity to express our views on the recent proposal by the NCUA Board addressing the field of membership (FOM) rules of the National Credit Union Administration.

We appreciate the NCUA Board's openness to consider much needed reforms to the current FOM rules. Although there are a number of positive aspects of this proposal that we support, we feel the Board did not go far enough, or as far as the law allows. The agency is taking what we consider an unnecessarily restrictive view of the Credit Union Membership Access Act (CUMAA) and is missing the mark by not removing some of the unnecessary restrictions placed in the FOM rules back in 2010.

We still feel this proposal is a significant step in the right direction that, if combined with a few changes and enhancements allowed within the CUMAA, could help provide much needed flexibility for federal credit unions, like Mountain America, seeking to grow, diversify and better serve our members.

We are pleased to provide our thoughts and recommendations regarding the NCUA Board's proposed amendments to federal FOM rules.

Modernizing Reasonable Proximity to the 21st Century Delivery Channels

We believe one of the most significant and needed parts of the proposal is the revised definition of "service facility" for SEG expansion to include online, computer, tablet and mobile phone delivery channels to determine reasonable proximity for SEG expansions. This is true modernization and brings SEG expansion and service delivery recognition by NCUA into the 21st century. It enables credit union members to interact with MACU when and how they wish.

The 25-mile radius as reasonable proximity to a branch for SEG expansions was not only outdated, but also unnecessarily restrictive. It prevented the extension of credit union services to many businesses and associations that needed them badly for their employees and members.

Since the NCUA Board did not elect to extend the modernized view of delivery channels to credit unions seeking to serve an underserved area, this might be an opportunity to keep the old 25-mile radius in play by saying that federal credit unions can serve underserved areas if there is a branch within 25 miles of the area – perhaps even 10 miles might be workable. But, while reasonable proximity for serving underserved areas may require a physical presence to be in striking distance for the residents of such an area and total service by remote means might be unreasonable, there should not be a requirement for a credit union to open a branch in an underserved area if there is one nearby that could serve those residents.

It is not safe and sound for federal credit unions to open unnecessary branches inside underserved areas if they have branches within a true reasonable proximity. This has and will continue to deter many federal credit unions from extending needed service into underserved areas. Reasonable proximity should at least be reasonable if there is indeed proximity to the underserved area to be served.

Please consider a provision on underserved area reasonable proximity in the final rule.

Population Caps Retained

The single biggest problem with this proposal is the Board's decision to retain arbitrarily imposed population caps on communities comprised of more than a single political jurisdiction. While the addition of Combined Statistical Areas and the removal of the "Core Area" service requirement are certainly improvements, these enhancements to the federal rules are not nearly as effective as they seem at first glance when they are still subject to an arbitrary 2.5 million population cap.

If one of the goals of the NCUA Board is to ensure the federal charter is competitive with state charters -- very few of which, if any, have population caps -- the retention of arbitrary population caps severely undermines such a goal. We are convinced the federal charter will always be at a disadvantage as long as population caps are maintained. These caps were put in place in 2010, over twelve years after the passage of the CUMAA in 1998. They are obviously not required by law and should be removed from this regulation when it is finalized.

Core Service Areas

We firmly support the proposed changes that will give federal credit unions the ability to convert to a community charter or expand an existing community charter without having to serve the core area -- if electing to serve a portion of a Core Based Statistical Area (CBSA). This change is significant in that it provides additional flexibility to a credit union in making a true safety and soundness determination as to what part of an area it can reasonably serve and does not feel that its financial position would best be served by taking the entirety of a CBSA that would have to encompass the core area despite the credit union's marketplace footprint being focused on other parts of the CBSA.

Combined Statistical Areas

This proposal also gives credit unions the ability to apply to serve combined statistical areas subject to the existing population cap of 2.5 million. This is a needed change; however, we are disappointed that such communities are still subject to an arbitrary population cap of 2.5 million. It diminishes the potential of this significant change for a number of credit unions in larger metropolitan areas.

Areas Adjacent to a Core Based Statistical Areas

This is a good addition to allow a federal credit union to apply with documentation to serve an outside area contiguous to its current Core Based Statistical Area or single political jurisdiction. Without question (even though the population cap diminishes its applicability to a number of larger communities that need access to more lower-cost financial services) this is a meaningful and needed change.

Congressional Districts

We are in favor of the provision in the proposal that establishes a congressional district as being within a reasonable definition of a well-defined local community. While it will not be used as much as other options in this proposal, it does provide another opportunity for those credit unions seeking to diversify their fields of membership through a community charter. A congressional district, by its nature, is well-defined and interactive among its residents.

Underserved Area Concentration of Facilities Test

We have concern with the concentration of facilities test for qualifying underserved areas. We feel that, if an area qualifies under any governmental validated metric as underserved, the determination by that governmental agency should be *prima facie* evidence that the area could benefit from another credit union extending its service there.

The proposed exclusion of non-depository institutions and non-community credit unions from the concentration of facilities ratio is somewhat better than the current burdensome and complex formula. However, this proposed rule still leaves the process to qualify underserved areas more cumbersome than needed for this important purpose, which is so crucial to the credit union mission. Serving more underserved areas by not-for-profit financial cooperatives should be encouraged by NCUA, not discouraged. The concentration of facilities test is a major discouragement to this type of extension of service to persons of modest means.

We feel the most effective way to make the process simpler and more effective is to take out the concentration of facilities test in its entirety. If the area qualifies under any governmental standard at the federal or state level, it should be automatically considered underserved to allow more consumer choice for its residents. We fail to see where any underserved area does not benefit from more financial institutions serving its residents and providing them with additional choices.

Rural District

The proposed rule raises the population cap for Rural Districts to a 1 million-population cap. This still makes us wonder why a population cap is needed if an area is rural and meets the other requirements such as the limits on multi-state expansion and population density tests.

Inclusion of SEG Contractors in a Multiple Common Bond

According to our understanding of the proposal, this provision would add to a SEG based credit union independent contractors with a "strong dependency relationship" to the SEG. We support this provision and believe it will be helpful in qualifying potential members for a number of multiple common bond credit unions.

Contractors and Office/Industrial Park Tenants in a SEG Based Credit Union

The provision to allow a multiple common bond to serve – when applied for by the group to become a SEG – any contractor with a strong relationship with a SEG, all of the businesses in a single office complex that seeks service, any store in a mall that is a SEG or any tenant in a SEG which is an industrial park is reasonable.

Expansion of Credit Union Membership to Groups Most in Need

In addition to the proposed changes in the FOM proposal, we request your consideration of allowing credit union membership to those:

- Serving in the military, with
- Military veteran status, or
- Low income status

Ensuring these individuals easily and automatically qualify for membership with any credit union will provide greater access to financial services to those greatly in need of them.

SEG Letter Requirements

We propose the NCUA modify the requirement that credit unions obtain a new sponsor/SEG letter any time there is a change in management or ownership. This requirement places an undue administrative burden on multi common bond Federal Credit Unions and their SEGs. Many of the SEGs MACU works with are acquired, merge or otherwise consolidate. Under the current rule, when these events occur a Federal Credit Union is required to obtain a new sponsor letter. We believe this requirement should be modified to require the Federal Credit Union to notify the NCUA that there has been a name change to the SEG.

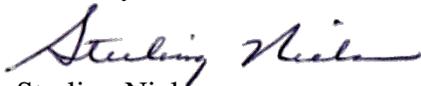
Need to Address FOM in Mergers

The proposed rule misses a great opportunity to get field of membership out of the way of solid voluntary mergers that would result in safer and stronger credit unions. NCUA has been extremely tight in defining when a continuing credit union in a merger can keep the field of membership of the merging credit union. The ability to keep the combined FOM is driving the decision of choosing the continuing credit union to being a state charter more times than it should. The federal charter is at a disadvantage in mergers because of this fact – the federal FOM rules are too restrictive in a merger. Please consider ensuring that charters of credit unions,

which are merging be grandfathered and not require a change in FOM in order to merge with another credit union which has a different FOM. We request that if either credit union in a voluntary merger can be demonstrated by projections and a narrative case will likely be less than well capitalized under PCA net worth or NCUA's risk-based capital rule, the two credit unions be allowed to merge and both FOMs remain intact in the combined entity. Such a provision is needed and, because it is largely a FOM issue, the merger question should be addressed in a final rule.

As always, thank you for the opportunity to provide our thoughts and comments. Again, we commend the NCUA Board for their willingness to address this important issue. The result should be safer, sounder and stronger credit unions.

Sincerely,

A handwritten signature in cursive script that reads "Sterling Nielsen".

Sterling Nielsen

President/CEO Mountain America Credit Union