



January 28, 2016

Mr. Gerard Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428

Re: Proposed Amendments to 12 CFR Part 701 Chartering and Field of Membership Manual

Dear Mr. Poliquin:

On behalf of the Board and Management of Franklin Mint Federal Credit Union, please accept this comment letter on the recently proposed changes to NCUA's Chartering and Field of Membership Manual.

Clearly, the modernized field of membership reform presented in this proposal is needed and although we believe the agency could have and should go further in this proposal under its existing statutory authority, we applaud the NCUA Board for taking on this critical and competitive issue for credit unions. Meaningful field of membership modernization is needed to allow federal chartered credit unions, especially those with a multiple common bond charter like FMFCU, to diversify. We are convinced that real diversification options is what allowed SEG based credit unions to weather the Great Recession so well. At FMFCU, we view the availability of working field of membership options as a safety and soundness issue, not just merely a growth issue. With that in mind, we are pleased to offer the following comments and observations for your review and consideration.

For the most part we are supportive of the proposed rule. However, there are certain areas of the proposal that if enacted will apply to us directly as a multiple common bond charter where we would like to offer specific comments and recommendations.

### ***The Inclusion of SEG Contractors in a Multiple Common Bond***

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

***The Ability to Add Office/Industrial Park Tenants in a Multiple Common Bond Will Expedite Access to Credit Union Service***

This provision to allow a multiple common bond credit union to serve any business in an office complex, any store in a mall or any tenant in an industrial park if the complex, mall or park administration seeks the service is a welcomed change that we fully support. It prevents having to sign up as a SEG each individual tenant in such a multi-business enterprise and enables a credit union to sign up the entire complex in one SEG approval that covers all businesses within the complex. This provision will expedite access to credit union service and is one that we fully welcome and support.

***Threshold for Streamlined Determination of Stand Alone Feasibility of Groups Greater Than 3,000 Should Be Increased***

Although we view this provision as primarily a processing improvement, this is a good change and is representative of what goes on in the real world. That said, for this to change to be truly effective and helpful, the range for streamlining the determination of feasibility should be increased to 10,000 (or maybe even larger) in order to fully take into account the actual penetration rate of a group required to sustain a viable credit union.

In addition, we believe that with this change the SEG overlap rule should also be amended so that credit unions only need to reach out to other overlapped credit unions if the group is also comprised of 5,000 (or any higher number the agency may assign in a final rule) or more potential members. The proliferation of online financial services providers and bank/credit union branches with evening and weekend hours makes the concept of evaluating the necessity of overlap protection an antiquated and unnecessary process.

***Inclusion of Honorably Discharged Veterans as Other Persons Eligible for Membership in Credit Union is Good Public Policy if Applied Across the Board to All Federal Charter Types***

We wholeheartedly support this change and believe it to be an appropriate way to honor and support those individuals who have honorably served our country as a member of the United States Armed Forces. However, we believe any federal credit union, regardless of charter type, should be able to include within its common bond the honorably discharged veterans of any branch of the United States Armed Forces. Most credit unions today are permitted to serve volunteers and other general groups of their respective credit union under the *Other Persons Eligible for*

*Membership* clause in the FOM manual. We believe honorably discharged veterans should be given similar treatment and not be limited solely to those credit unions with a particular military tie to their FOM. Doing so would truly honor those who have worn the uniform of this country.

***Concentration of Facilities Test for Establishing Underserved Areas  
Should Be Removed in its Entirety***

As a federal multiple common bond charter with a history of taking in underserved areas, we were disappointed to see that the proposed rule retains the controversial Concentration of Facilities Test (CFT) matrix. Our experience with this cumbersome requirement is that it more often than not stands in the way of a credit union reaching out to serve the residents of underserved areas and has rapidly become one of the most frustrating aspects of submitting a request to serve an underserved area.

Although the proposed exclusion of non-depository institutions and non-community credit unions from the concentration of facilities ratio is an improvement in a very flawed and burdensome matrix, in our view, it is merely a band-aid that offers very little from a practical perspective. Frankly, we were hopeful that this controversial test would have been removed from the rule altogether. To tinker around the edges of this flawed test is going to do little in providing meaningful reform and will only continue to cause confusion that unfortunately will result in less service to underserved areas.

While perhaps minimally better than the current matrix, the proposal states that NCUA will consider alternative methods a federal credit union can rely on to determine whether a proposed area is underserved by other financial institutions provided the analysis relies on NCUA data or another federal banking agency's data. The inclusion of such alternatives in the proposal to identify areas as underserved causes us to question why credit unions should be required to demonstrate that an area designated by a governmental agency like the US Treasury CDFI Division as underserved is underserved in the first place. Either an area qualifies as underserved or it does not. It really should be as simple as that.

If an alternative is to rely on counties designated as underserved by the CFPB or to utilize data derived from the federal banking agencies as this proposal allows, we think it would more make more sense to simply allow a credit union rely on the US Treasury's CDFI determination that the census tracts comprising the area to be served are indeed underserved. Requiring additional documentation from other financial regulators seems to be a redundant exercise in our view. We think the

CDFI's determination of an area as meeting the definition of an underserved area should be enough to demonstrate significant unmet needs.

The best approach in our view would be to completely remove the significantly flawed and ill-advised Concentration of Facilities Test and use the determination by CDFI as justification that the area is underserved. If the other financial institutions located in an underserved area have not positively impacted the residents in a manner sufficient enough to build the area out of its lower income status, then why should NCUA penalize a credit union willing to join the ranks of those financial institutions serving that underserved community? Additional access to lower cost services only benefits underserved areas. NCUA should avoid promulgating a rule that essentially treats financial institutions already operating in an area as if they have a franchise when the community obviously needs additional options by their continued underserved status.

***Revised Definition of Service Facility for Reasonable Proximity Purposes is Welcomed But Should Be Applied Across the Board to Include Underserved Areas***

We enthusiastically support the revised definition of "service facility" for SEG expansion to include online financial services, including computer based and mobile phone channels. In our view this is one of the most important and long overdue provisions in the proposed rule. It is a significant and welcomed change that finally acknowledges 21<sup>st</sup> Century advances in technology by an agency that has for too long held to an anachronistic view that a SEG must be within 25 miles of a credit union branch in order to be in "reasonable proximity" for service.

However, the proposal falls short of its full potential by excluding its application to the requirement that a credit union serving an underserved area "must establish and maintain an office or facility in an underserved area." In other words, a credit union can serve a SEG through online and mobile services without a branch nearby; however, it cannot serve an underserved area without a physical presence within the area.

It is important to note that the agency goes to great lengths in the proposal to provide statistical evidence and support for the use of online financial services, including computer based and mobile banking applications. Clearly, the facts speak to the need for a revised "service facility" definition. Yet, for some reason the proposal specifically excludes such a revised definition for underserved area expansion. This makes little sense in our view.

Is the agency suggesting that low-income persons in underserved areas are unable or should not be able to utilize their laptop or mobile phones to access the services

offered by their credit union? It would seem that an equitable treatment argument should be applied here. If mobile banking and transactional websites are good enough for multiple common bond credit unions with SEGs all across the country and start up credit unions with no branches, then it should be authorized for credit unions that have made a determination to serve an underserved area. We are hard pressed to see how the service component to the member is any different here. Again, SEG expansion as well as underserved area expansion should be evaluated on the credit union's ability to serve.

Again, there is no question but that the revised definition of "service facility" for SEG expansion is both a good and welcomed change, but it should be applied to underserved area expansion as well. Failing to apply the revised definition to underserved area expansion continues to place the federal charter at a disadvantage over most states. More and more states are granting statewide fields of membership...and they are allowing their credit unions to rely on 21st century technology to serve their members. NCUA should fully embrace the revised definition of "service facility" and apply it across the board.

### ***Failure to Amend Merger Rules***

The proposal is silent on mergers. It is difficult to see how this proposal can be viewed as major FOM reform, considering the merger trends today, without addressing FOM constraints in voluntary mergers and the unreasonably tight interpretation the agency takes in determining what constitutes "in danger of insolvency" for emergency mergers. With the industry averaging one merger per business day for the last 15 years, this omission is big and we would encourage the Board to give careful consideration to modifying its existing rules on mergers.

We feel strongly that NCUA merger rules should be modernized so when a community credit union and multi-common bond credit union merge the surviving credit union should be able to choose the resulting field of membership of the combined institution. The current regulatory practice requiring the merging community credit union to convert back to a multiple common bond charter prior to consummating the merger is impractical and inefficient and seems to be more of an exercise of form over function. This is a drain on member capital that can be invested in the continuing credit union. If the boards of both credit unions approve "giving back" the community charter they should be allowed to do so without jumping through unnecessary regulatory hoops and hurdles.

***We Support Proposed Changes and Revisions to Definition of Well-Defined Local Community But Believe Retention of Arbitrary Population Caps Unnecessarily Undermines Proposed Improvements***

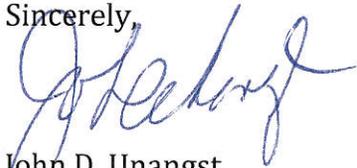
Although we are currently a multiple common bond credit union, we are supportive of the proposed changes that will add much needed flexibility to those credit unions seeking to convert to or expand an existing community charter. Any provision that serves to provide additional flexibility for credit unions in making a determination as to how to best serve their membership is a welcomed change.

That said, it is our view that the retention of population caps seriously undermines the flexibility and effectiveness of the proposed changes to the definition of community. As with our views on underserved areas stated earlier, either the area qualifies as a community or it does not. We see no reason to place an arbitrary population cap on a community that otherwise qualifies according to the rules set forth in the field of membership manual. We think the agency would be better served on fully evaluating the credit union's ability to serve the proposed community rather than hyper-focusing on the population of the area. The state supervisory authorities do not place such emphasis on population caps and routinely approve statewide fields of memberships to state charter credit unions. Population seems to have very little to do with their analysis. Neither should it be for federal charters seeking community charters.

Without question the proposed rule is a marked improvement over the rules currently in place and are clearly within the statute. With a few small, but significant changes as discussed above, this proposal could provide even more meaningful Field of membership reform for federal credit unions. We encourage the NCUA to consider these suggested areas of additional revision to the original field of membership proposal.

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 for the growth, diversification and long term financial enhancement that will result in stronger, safer and sounder credit unions.

Sincerely,



John D. Unangst  
President & CEO

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