Maryland Bankers Association

February 8, 2016

Submitted via Email: regcomments@ncua.gov

Mr. Gerard S. Poliquin
Secretary of the Board National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428

Re: [Maryland Bankers Association]—Comments on Proposed Rulemaking for Part 723

On behalf of our members, the Maryland Bankers Association (MBA) respectfully submits this letter commenting on the National Credit Union Administration's (NCUA) proposed rule on the Chartering and Field of Membership Manual. Founded in 1896, MBA is the only Maryland-based trade group representing banks in the state. The 112 banks operating in Maryland hold in excess of $130 billion in FDIC-insured deposits in more than 1,600 branches across the state. The banking industry employs about 40,000 banking professionals in Maryland. MBA's members include banks of all sizes and charter types including: Maryland state-chartered banks, national banks and thrifts, and state banks chartered outside of Maryland. We appreciate your consideration of our concerns and the opportunity to comment on this very important rule change.

MBA strongly recommends reconsideration of NCUA's recent regulatory proposal which unnecessarily expands the credit union field of membership beyond NCUA's congressionally granted authority.
The fields of membership limits placed on credit unions coupled with a tax-exempt status, established by Congress, were to facilitate the ability of credit unions to provide basic financial services to underserved communities, that many years ago, did not have access to traditional banks. Fields of membership are intended to target credit union service within specific, well-defined local communities, neighborhoods, and rural districts.

Maryland community bank members provide valued and important financial services to their communities, business customers, and various clients. Maryland's banks provide a wide variety of financial services to Maryland consumers and businesses, reinvest in their communities through loans, investments and service and are well-positioned to serve their communities in the future. With 92 Maryland credit unions, serving almost 2 million customers across the state (out of a total state population of 5.8 million), Maryland's market is well served already and does not cry out for expansion. These credit unions are both exempt from income taxes and compliance with the Community Reinvestment Act.

MBA firmly believes the existing field of membership limitations should continue so long as credit unions continue their non-profit status. If any credit union wishes to expand their membership field beyond the statutory limits, they can do so by converting to a mutual savings bank charter and competing on a level playing field with community banks.

In brief, NCUA's proposal would do several things, including:

- **Redefine local community and rural district, significantly expanding the definition of community beyond any reasonable interpretation of 'local' or 'rural'** – circumventing Congressional intent as expressed in the Credit Union Membership Access Act (CUMAA) and extending beyond NCUA's underlying statutory authority. For example, under the proposal, NCUA would recognize an individual Congressional district as a well-defined local community—creating a statewide field of membership in ***seven*** states. Maryland congressional districts are required to represent equal numbers of people. Congressional districts are not required to adhere to local community geographic boundaries, such as major bodies of water – such as the Chesapeake Bay.

- **Provide additional methods of membership expansion for multiple common bond credit unions** including a streamlined application process for adding a new group with fewer than 5,000 members—evading the intent of Congress. When Congress amended the FCU Act in 1998 it limited the maximum size for a group to be added to an existing multiple common bond credit union to 3,000, only permitting the NCUA Board to add a group with more than 3,000 members under certain conditions.

- **Redefine members' proximity to multiple common bond credit unions.** The FCU Act requires a multiple common bond federal credit union to have a service facility within reasonable proximity to any group added to its field of membership. However, the proposal would amend the definition of "service facility" to include online internet channels, including laptop computers, personal computers and mobile devices—which eviscerates any reasonable notion of "proximity". A multiple common bond credit union would be able to significantly broaden its geographic reach ***without providing a branch network*** under this proposal.

MBA's Concerns

MBA has strong concerns about the proposed changes which are further discussed below including: (1) the proposed rule change expands the permitted field of membership well beyond any reasonable definition of local and well-defined field, with no explanation of how the expansion will enable credit unions to better meet their public mission, (2) the proposed changes should be taken up in Congress rather than presented as a regulatory proposal, and (3) the proposed rule changes are not needed.

- **Proposed Rule Changes expand the field of membership well beyond any reasonable definition**
  As noted earlier in this comment letter, the Proposed Rules expand the permitted field of membership far beyond any reasonable definition of local and well-defined. In addition, the Proposed Rule does not offer an explanation of how this expansion will enable Credit Unions to better serve their public mission of servicing unmet needs of specific customer groups, such as a rural community, etc. Without evidence that the proposed rules will specifically address an unmet need of specific consumer groups, the proposed field of membership expansion is unnecessary.

- **Proposed Rule Changes are Outside the Scope of NCUA and should be addressed by Congress**
  MBA strongly believes NCUA is overstepping its regulatory reach by expanding business lending loopholes. The regulatory proposal is contrary to congressional intent to limit business lending by credit unions. In 1998, Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. Congress instituted restrictions on business lending deliberately: "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans." This rule disregards congressional intent. MBA strongly recommends that NCUA withdraw or reconsider the proposal. Congress placed specific limitations on credit union lending that should not be expanded without Congressional approval.

- **Proposed Rule Changes Are Not Needed**
  The proposed regulatory changes are unnecessary and MBA does not believe there is a compelling need for the proposed extensive changes. Below are some facts on Maryland credit unions, banks, and taxes. This provides compelling evidence that an increase in membership field limits for credit unions is neither needed nor merited, given the congressionally-authorized mission of credit unions.

Below and attached for your information, is additional information on credit unions in Maryland and how credit unions are more focused on serving upper-income than lower-income customers

Facts on Maryland Credit Unions, Maryland Banks and Taxes

• ***Tax-Paying Maryland banks compete head to head with tax-exempt credit unions.***

- Although they portray themselves as "mom and pop shops" for people of modest means, today's credit unions are a $1 trillion industry, with many indistinguishable from banks.
- In Maryland, 92 credit unions hold assets totaling almost $21 billion and serve almost two million members. To put this in context, the state's total population is 5.8 million.
- The BIG difference between credit unions and banks is that credit unions do not pay federal income taxes, depriving the U.S. Treasury of nearly $2 billion every year. With a state income tax exemption, as well, expansion of the credit unions' common bond will mean that more financial services will be provided through the tax-exempt credit union industry, reducing revenue to federal, state and local governments for needed services.
- Unlike all banks, credit unions are not examined for their lending, investments and service contributions to their community through the Community Reinvestment Act.

• ***Who Pays the Taxes?*** Taxes Paid in 2014

- Maryland Credit Unions: $0
- Maryland-chartered banks: $111,541,000 *(Includes all applicable federal, state & local, and foreign income taxes)*
- The State Employees Credit Union of Maryland alone would have paid **$4.2 million in taxes during 2014**, if it had paid its fair share.

• ***Larger than Most Maryland Banks:***

- State Employees Credit Union of Maryland with $2.9 billion in assets is the largest credit union in Maryland, larger than 97% of all Maryland-headquartered banks.

• ***Contrary to Congressional Intent, Credit Unions Serve - including those in Maryland - Serve a Relatively Small Amount of Lower-Income Customers.***

- Congress granted credit unions a tax exemption so that they could meet the credit needs of people of modest means. However, evidence indicates that credit unions are no longer focused on their original mission to serve disadvantaged members of their community and use their tax advantaged to disproportionately serve upper-income customers. This was noted in a U.S. Government Accountability Office report entitled: *Credit Unions – Greater Transparency Needed on Who Credit Unions Serve and Senior Executive Compensation Arrangements*.

Conclusion

MBA respectfully urges NCUA to reconsider this proposed rule, withdraw it, and if it determines that some changes of this nature are needed, then ask for further comment through public hearings, as well as consult with Congress and engage a more appropriate legislative process. Please contact me if you have questions or would like to discuss MBA's concerns in greater detail. Thank you for the opportunity to comment on this proposal.

Sincerely,

Kathleen M. Murphy
President and CEO, Maryland Bankers Association

Attachment: *Maryland Credit Union Mortgages: Not for People of Modest Means*

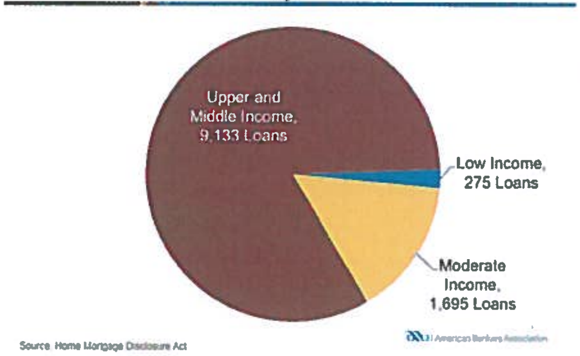
Maryland Credit Union Mortgages: Not for People of Modest Means

Congress granted credit unions a tax exemption so that they could meet the credit needs of people of modest means. But the evidence indicates that Maryland credit unions are no longer focused on their original mission to serve disadvantaged members of their community. In fact, Maryland credit unions are using their tax advantage to originate mortgages to upper-income individuals, who do not need taxpayer subsidized financial services. This clearly is a misuse of the credit union tax exemption.

Mortgages Originated by Credit Unions as Percent of Total	
Lower Income	***2%***
Upper Income	***34%***

The time has come for Congress to repeal this outdated credit union tax exemption.

Low-Income Credit Union Borrowers Receive Very Few Loans



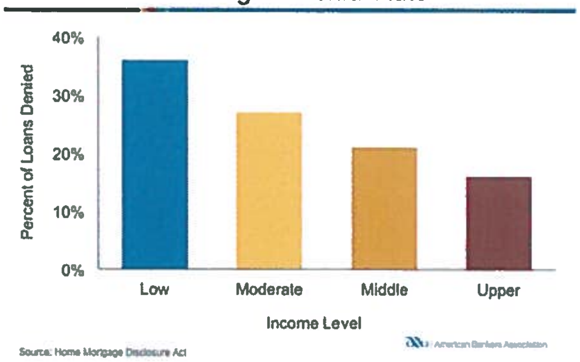
In Maryland, only 275 mortgages originated went to low-income borrowers, compared to 9,133 mortgages originated to middle- and upper-income borrowers, according to the most recent Home Mortgage Disclosure Act (HMDA) data.[1]

Moreover, 109 HMDA reporting credit unions serving Maryland did not make a single loan to a low-income individual. Furthermore, 8 credit unions only originated mortgages to upper-income individuals.

A large Maryland-based credit union, Tower FCU with $2.8 billion in assets, has abused the tax exemption granted to the credit union industry. Tower FCU originated 435 mortgages in 2014. However, only 7 of those mortgages went to low-income borrowers, whereas 215 mortgages went to upper-income borrowers.

Instead of using their tax exemption to serve people of modest means, the core mission of credit unions, this generous tax subsidy has been misdirected to benefit higher-income borrowers.

Low-Income Credit Union Borrowers Have Higher Denial Rate



[1] Income designation definitions and data according to the Home Mortgage Disclosure Act records for 2014, the most recent data.