

February 8, 2016

Gerard Poliquin,  
Secretary of the Board, National Credit  
Union Administration, 1775 Duke  
Street, Alexandria, Virginia 22314-3428  
Delivered via e-mail: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

Re: Chartering and Field of Membership Manual  
12 CFR Part 701  
3133-AE31

Dear Mr. Poliquin:

The Ohio Credit Union League (OCUL) applauds the National Credit Union Administration's (NCUA) proposal to modify many of the rules regarding the addition of new groups to the field of membership (FOM) of federal credit unions (FCUs). It is our estimation that many of these changes will result in the growth and strengthening of FCUs. In many cases these revisions may serve to enhance the safety and soundness of credit union operations. However, in some cases, the proposed changes do not go far enough, as outlined below.

Credit unions were created under the philosophy of people helping people, communities coming together to help their neighbors. As communities evolve, so too must the framework for membership eligibility. Defining "community" used to be easy – people who work together, live in the same neighborhood, or attend the same church or school. But in today's increasingly interconnected world most of us are becoming a part of multiple diverse communities, at times even communities that are separated geographically. Ohio's credit unions commend the NCUA for recognizing this need for change, and support the proposed FOM reforms, which recognize new ways to define the bonds that make people into a community.

NCUA's proposal contains a number of changes to enhance the definition of communities that can be served by FCUs. Among the proposed improvements:

1. Refine the use of a "Core-Based Statistical Area" (CBSA) as defined by the U.S. Census Bureau to determine a "well-defined local community" (WDLC) and increase the population limit for such areas to 2.5 million;
2. Permit a U.S. Congressional District to be used to define a WDLC;
3. Modify rules used to define a rural district, including expansion to contiguous states and increasing the population limit to 1 million;
4. Improve the methods used to identify underserved communities and seek suggestions for further improvements;
5. Redefine "reasonable proximity to services" to include a transactional website for multiple common bond FCUs;
6. Include select employer group contractors and tenants of an office or industrial park as eligible members of a multiple common bond FCU;
7. Streamline the determination of feasibility of establishing an FCU for groups of 3,000 – 4,999 members;

8. Expand the definition of an FCU organized around a trade, industry, or profession (TIP) to include employees of entities that have a strong dependency relationship with (and whose employees work directly with employees of) other entities within the same industry; and
9. Allow a credit union to include within its common bond those who have been honorably discharged as a veteran of any branch of the United States Armed Forces listed in charter, continuing eligibility for credit union membership beyond their time on active duty.

We support these changes as necessary to allow FCUs to improve the financial conditions for more communities of U.S. consumers by providing low-cost alternatives for a variety of financial services.

### **Further Developing the Definition of “Community”**

The changes made in 2010 requiring the use of the U.S. Census Bureau’s scheme of CBSAs, Metropolitan Statistical Areas (Metro SAs), and Micropolitan Statistical Areas (Micro SAs) streamlined the process of adding WDLs to an FCU’s field of membership. Using the tools developed by a federal agency charged with defining communities allows for consistency and efficiency when an FCU requests an expansion. The refinements in the current proposal recognize some of the limitations that have been uncovered in using this scheme, and we appreciate NCUA’s willingness to make common sense adjustments.

Unfortunately, the rules issued by NCUA continue to limit how credit unions can define “community” and result in credit unions turning away potential members, merely because they live across an artificial boundary drawn on a map, even if people living on both sides of that boundary work together and interact on a daily basis. NCUA should develop supplementary processes to allow crossing the boundary between the areas defined by the U.S. Census Bureau. As an example, an FCU based in a specific Micro SA should be able to demonstrate that the potential community that could be served extends over a county line into an adjacent Metro SA, even if the two are in separate CBSAs. This can be particularly important in states such as Ohio, where the mix of rural and urbanized counties and the distances between urban centers have resulted in U.S. Census Bureau lines that divide communities that have been interacting for over 200 years.

### **Recognizing “Strong Dependency” Among Groups**

Another change this rule would bring is for credit unions organized to serve a specific employer group, where all employees work in the same place or the same industry. People who work together may not always be employed by the same company, becoming more common in today’s economy, where a single office or factory might have some workers employed directly by the company, and others who are independent contractors. There are also workplaces where multiple companies employ workers, such as an airport where freight handlers and food service workers have separate employers. Under the current rule, FCU membership eligibility is extended to contractors working with a single employer for FCUs organized in that fashion.

The proposal extends this eligibility to contractors and others with a “strong dependency” relationship to groups organized around a TIP and FCUs that consist of multiple groups (multiple common bond FCUs). It recognizes that a technical difference in how a worker is paid does not negate the common bonds between them, and we therefore support this change.

However, the current rule and the proposed changes do not allow for the close interaction between members of TIP and consumers who have a “strong dependency” with the TIP but are not employed – for example, students in area schools or volunteers in a hospital. These unpaid members of a community defined by a TIP should also be recognized as eligible for an FCU’s FOM.

### **Expand TIPs on a Regional Basis**

Another potential enhancement to the TIP field of membership rules would be to promote the expansion of a TIP to a larger potential geographic area, crossing state lines. This concept would combine the current TIP rules with two of the changes under the proposed rule – the expansion of a rural district to contiguous areas of a neighboring state and the addition of a transactional website to qualify as reasonable access to a service facility. Here in the Midwest, the shared interests of educators in Ohio (for example) are extremely similar to those in a neighboring state such as Indiana. Allowing a TIP to serve the common interests of a larger geographic area across state boundaries is another way that NCUA can recognize the common bonds that define a credit union.

### **Transactional Website as “Service Facility”**

The proposed rule modernizes the requirement that a credit union must have a brick-and-mortar facility to serve potential members of a community for those credit unions that are made up of various groups of people banding together (i.e., multiple common bond FCUs). In the past, it was a necessity that the FCU be physically present and conveniently close to a group being served, but evolving technology expands the ways members can interact with their credit union. Groups who wish to be served by means of a transactional website that allows them to make deposits, apply for loans, or have loan proceeds disbursed to them will be allowed to join a credit union community. We applaud NCUA’s acknowledgement that improvements in technology mean improved access to credit union services.

The current proposal limits the use of a transactional website as a service facility to multiple common bond FCUs. Usage of a transactional website could also be used to meet the service needs of other types of communities served by FCUs, such as wide-ranging rural districts and TIPs which have expanded to serve larger regions. Further, although NCUA specifically excluded usage of a transactional website as a service facility for an underserved community, the agency should allow an FCU expanding to serve the underserved to demonstrate an ability to provide services through technological means, in light of continuing improvements in accessing mobile banking services through the use of smart phones and other devices. The explosion of online payday lenders and others preying on underserved markets show the need for credit union alternatives in this area.

### **Streamlined Determination of Stand-Alone Feasibility of Groups Greater than 3,000**

The Federal Credit Union Act currently presumes that groups of 3,000 or more can form a credit union. However, in NCUA’s experience, groups between 3,000 and 5,000 members frequently, if not always, cannot feasibly or reasonably establish a new single common bond credit union. Because of the statutory presumption on groups of 3,000, there is a higher burden of proof to establish that groups over 3,000 cannot form a separate credit union. Under current rules, an overlap analysis is required for a group between 3,000 and 5,000 members. The proposal

eliminates this overlap analysis, substituting a written statement indicating the conditions that exist supporting the fact the group cannot form its own credit union.

For groups exceeding 5,000 members, the existing standard application process is unchanged, requiring a group to fully describe its inability to establish a new single common bond credit union. The NCUA Board has requested comments on the 5,000 member threshold. We feel that this threshold is too low. NCUA observed that 80% of credit union failures over the past 12 years occurred in credit unions with fewer than 5,000 members. Common sense dictates that the pool of individuals eligible for membership in an FCU who ultimately do not join the credit union must be significantly larger than the number of FCU members. We suggest that a reasonable estimate of the percentage of those eligible to join a credit union who ultimately become members is approximately 25% which would mean that a minimum number of potential members for a group seeking to establish a successful credit union would be 20,000.

### **Remove Complexity from the Merger Process**

Mergers are a fact of life for the credit union industry, and one of the main considerations when seeking a merger partner is whether the charter types of both credit unions are the same. Although not explicitly outlined in NCUA's proposal, another area touching FOM that should be improved is changing the process of merging credit unions where the merging credit unions have unlike fields of membership but there is no desire to retain the merged credit union's field of membership. Currently, the credit union being merged must undergo a charter conversion prior to the actual merger being approved. NCUA could simplify this process by providing clear guidance stating the merged credit union can change its FOM and approve the merger in one step. Delays in the merger process can adversely affect the communities being served by the merging credit unions and we therefore urge NCUA to streamline the merger process wherever possible.

### **Conclusion**

Ohio credit unions applaud NCUA for their open-mindedness to the evolving environment and invite other regulators to embrace this idea of change. Easing unnecessary limitations that constrain credit unions will allow them to expand their philosophy of people helping people, and empower consumers with financial choice.

For the current proposal, we recommend the following enhancements:

1. Allow the option for an FCU to demonstrate that a community crosses boundaries defined by U.S. Census Bureau;
2. Expand the definition of groups with a "strong dependency" relationship to a TIP to include unpaid community members such as students or volunteers;
3. Allow TIPs to expand to a larger geographic area;
4. Allow the use of a transactional website to meet the definition of "service facility" for other communities in addition to multiple common bond FCUs, such as rural or otherwise underserved areas;
5. Define the minimum number of potential members qualifying for the streamlined FOM expansion process to 20,000;
6. Remove complexity from the process of merging unlike fields of membership wherever possible.

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OCUL aggressively seeks a regulatory environment that promotes safety and soundness while allowing Ohio's 308 credit unions to effectively serve their 2.8 million members. In addition, OCUL promotes an environment conducive to credit union growth. Finally, we support common sense changes designed to facilitate credit union outreach to new communities and consumers.

The comments reflected in this letter represent the recommendations and suggestions that we believe would be in the best interest of Ohio credit unions. We are available to provide additional comments or information on this proposal if so requested. Please do not hesitate to contact Carole McCallister at (800)486-2917, ext. 262, or at [cmccallister@ohiocul.org](mailto:cmccallister@ohiocul.org).

Sincerely,



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CC: Stan Barnes, Ohio Credit Union League Chair  
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Credit Union National Association