

VIRGINIA BANKERS ASSOCIATION

January 29, 2016

Via e-mail: regcomments@ncua.gov

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

RE: Chartering and Field of Membership Manual Proposed Rule; RIN 3133-AE31

Dear Mr. Poliquin,

Thank you for the opportunity to comment on the credit union Chartering and Field of Membership Manual proposed rules (the “Proposed Rules”). The Proposed Rules unnecessarily expand the credit union field of membership beyond the NCUA’s statutory authority and exacerbate the unfair tax advantage credit unions have over banks, without any proof that these changes are needed to increase the availability of financial services to communities and consumers underserved by banks.

The credit union concept was conceived over 100 years ago at a time when some rural, urban, low-income or isolated communities did not have access to traditional banks. To facilitate the ability of credit unions to provide basic financial services to these underserved communities, Congress exempted credit unions from paying taxes and required them to focus their efforts on discrete, well-defined, local communities through the field of membership rules. Credit Union advocates claim the tax exemption simply relates to credit unions’ cooperative structure; if that were the case, it stands to reason that mutual savings banks and insurance companies should still be tax exempt, which they are not.

Today in Virginia, more than 100 banks of all sizes are ready, willing and able to serve individuals and families all across the state, of all income levels and professions, in cities, towns and rural communities. Any suggestion that credit unions are better equipped to serve these communities with better services or lower fees is unfounded and due solely to credit unions’ artificially lower tax-cost structure. Without definitive proof that the Proposed Rules will specifically enable credit unions to satisfy existing unmet needs of particular consumer groups, the proposed field of membership expansions are entirely unnecessary.

The Proposed Rules expand the permitted field of membership well beyond any reasonable definition of local and well-defined, with no explanation of how these changes will promote the ability of credit unions to fulfill their public mission. The Proposed Rules treat “combined statistical areas” and congressional districts as a well-defined local communities, and expand the rural district population limit by four times the current threshold to one million people – changes that in many cases will permit state-wide membership. That is certainly not what was contemplated when the credit union model was envisioned and granted tax exempt status.

The intent of Congress in the Federal Credit Union Act is clear. The NCUA is to keep credit unions small and focused on providing services to specific groups that lack other access to financial services. Credit unions are not subject to the Community Reinvestment Act (“CRA”), making the NCUA powerless to objectively verify and enforce credit unions’ compliance with their public service mission. In fact, recent HMDA data show that the vast majority of credit union mortgages are to upper- and middle-income borrowers and only a small percentage are to low- and moderate-income individuals.¹ The Proposed Rules would remove the requirement that community credit unions serve the “core” area of core-based statistical areas. This would permit credit unions in urban areas to decide to serve wealthy suburbs without serving the urban core – in effect redlining low-income, minority and underserved communities. Given that credit unions are not covered by CRA – nor have any obligation to document publicly that they are meeting their chartered responsibilities to serve people of modest means – this is an especially troubling part of the proposal.

The Proposed Rules exceed the NCUA’s statutory authority and are not necessary for credit unions to fulfill their public mission. Before adopting final rules, the NCUA must provide detailed legal analysis demonstrating its authority to make each change. Further, the NCUA should examine each element of the field of membership expansion proposal, and justify each element with specific, data driven analysis proving that it will enhance the ability of credit unions to serve a specific and underserved population. If that is not the case, the proposed expansions should not be allowed.

Sincerely,



Bruce T. Whitehurst
President and CEO

The Virginia Bankers Association represents banks of all sizes and charters and has served as the organized voice for Virginia’s \$615 billion banking industry and its 70 thousand employees since 1893.

Enclosure

¹ Income designations definitions and data according to the Home Mortgage Disclosure Act records for 2014, the most recent data. See enclosed fact sheet titled, “Virginia Credit Union Mortgages: Not for People of Modest Means.”

Virginia Credit Union Mortgages: Not for People of Modest Means

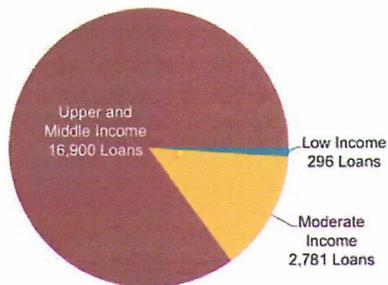
Congress granted credit unions a tax exemption so that they could meet the credit needs of people of modest means. But the evidence indicates that Virginia credit unions are no longer focused on their original mission to serve disadvantaged members of their community. In fact, Virginia credit unions 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

<i>Lower Income</i>	<i>1%</i>
<i>Upper Income</i>	<i>41%</i>

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

Low-Income Credit Union Borrowers Receive Very Few Loans



Source: Home Mortgage Disclosure Act

American Bankers Association

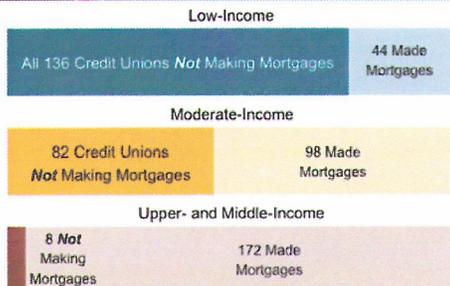
In Virginia, only 296 mortgages originated went to low-income borrowers, compared to 16,900 mortgages originated to middle- and upper-income borrowers, according to the most recent Home Mortgage Disclosure Act (HMDA) data.¹

Moreover, 136 HMDA reporting credit unions serving Virginia did not make a single loan to a low-income individual. Furthermore, 25 credit unions only originated mortgages to upper-income individuals.

The largest Virginia-based credit union, Navy FCU with \$70 billion in assets, has abused the tax exemption granted to the credit union industry. Navy FCU originated 4,686 mortgages in Virginia in 2014. However, only 122 of those mortgages went to a low-income borrower, whereas 3,283 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.

Majority of Credit Unions Are NOT Lending to Low-Income Borrowers



Source: Home Mortgage Disclosure Act
190 HMDA reporting credit unions in Virginia

American Bankers Association

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