

**From:** [Marilyn Foss](#)  
**To:** [Regulatory Comments](#)  
**Cc:** [Rick Clayburgh](#)  
**Subject:** North Dakota Bankers Association Comments on Notice of Proposed Rulemaking Regarding Associational Common Bond  
**Date:** Wednesday, February 03, 2016 11:36:54 AM

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February 3, 2016

Gerard S. Poliquin

Secretary of the Board

National Credit Union Administration

1775 Duke Street

Alexandria, VA 22314-3428

Submitted via Email to:

regcomments@ncua.gov

RE: North Dakota Bankers Association Comments - Notice of Proposed Rulemaking Regarding Associational Common Bond

Dear Mr. Poliquin:

The North Dakota Bankers Association (“NDBA”) appreciates this opportunity to comment upon the NCUA Notice of Proposed Rulemaking Regarding Associational Common Bond. NDBA is a trade association for banks and savings associations with offices in North Dakota. Most of our members are small banks. They operate offices in throughout our state, many in communities with fewer than 500 residents and some in communities with fewer than 100 residents. NDBA and its member banks understand being community- based, serving local needs, and paying taxes. It is because we understand these things that we object to the proposed changes and urge the Board to withdraw the proposal in its entirety and to return its focus to supervision, instead of trying to cater to credit unions’ clear desire to become tax-exempt, commercial banks and to operate without any meaningful common-bond or community connection among credit union members.

The proposed rulemaking has been described as one of sweeping change. However, regulatory agencies do not exist to make sweeping change. They exist to oversee credit union operations and to reasonably interpret and implement existing law. Federal credit union laws set limits for credit union membership; it is the legal responsibility of the NCUA Board to implement that law, not to make every effort to thwart the limits imposed by redefining well-understood terms of boundary into terms for expansion. Examples of this misguided approach to credit union oversight abound in proposal:

- Redefining what constitutes a local community or rural district to include the entirety of a Congressional district means that there would be a statewide field of membership for North Dakota that would not in any meaningful way reflect the diversity of North Dakota communities, urban or rural areas and would, without a doubt, result in the interests of North Dakota’s more populous areas taking precedent over rural interests in a way that completely contravenes the foundations of the credit union movement.
- The proposal to streamline field of membership applications for multiple common bond credit unions flies in the face of Congressional action to control the expansion of these types of credit unions by restricting additions to groups of 3000 or fewer unless specific conditions are met. Streamlining applications to expand membership by larger groups simple means that the Board will not be giving full and due consideration to whether legally mandated conditions are met. Frankly, it is unwise for the Board to reduce its own its authority to fully review applications in any context and in order to evade conditions that were imposed by Congress.
- The Board’s proposal to identify internet access, personal computers, and mobile devices as

a credit union service facility makes a mockery of the law and rules of interpretation that require an agency to adhere to the plain meaning of the words that are used in the statute and are an abuse of the Board's statutory power. Current law permits the addition of groups to the field of membership for a multiple bond credit union only if the credit union provides service facilities in reasonable proximity to the members of each group within its field of membership. The point of these requirements is to ensure the credit union provides a tangible, nearby, local meeting point for a multiple bond credit union and its members, not merely an ability to communicate.

Congress has repeatedly reaffirmed the mission of credit unions to provide local service to members who are united by a bond. The proposed rules are a clear attempt to evade the express law and intent of Congress and are an overreach of authority by the Board. We oppose them on these bases and also because they work to expand the tax subsidy for credit unions and the unfair competitive advantage which credit unions have over our member banks.

**In short, the North Dakota Bankers Association strongly objects to the proposed changes in the NCUA field of membership rules and respectfully requests the Board to withdraw the proposal as being improvidently made.**

Sincerely yours,

NORTH DAKOTA BANKERS ASSOCIATION

Marilyn Foss

General Counsel