



**BOARD ACTION MEMORANDUM**

**TO:** NCUA Board

**DATE:** November 14, 2008

**FROM:** Robert M. Fernald  
General Counsel

**SUBJ:** Proposed Amendments  
to Chartering and Field  
of Membership Manual  
(IRPS 08-2)

**ACTION REQUESTED:** That the NCUA Board adopt the attached final rule amending the section on "Service to Underserved Areas" in NCUA's Chartering and Field of Membership Manual, Interpretive Ruling and Policy Statement (IRPS) 08-2.

**DATE ACTION REQUESTED BY:** November 20, 2008

**OTHER OFFICES CONSULTED:** Regional Offices, Office of Examination and Insurance, and Office of Small Credit Union Initiatives.

**VIEWS OF OTHER OFFICES:** Concur.

**BUDGET IMPACT, IF ANY:** None.

**SUBMITTED TO INSPECTOR GENERAL FOR REVIEW:** Yes

**RESPONSIBLE STAFF MEMBERS:** Steven W. Wideman, Trial Attorney, Office of General Counsel.

**SUMMARY:** The IRPS 08-2 final rule updating and clarifying the process of approving credit union service to "underserved areas" compares as follows to the proposed rule:

First, the proposed rule clarified the statutory requirement that an "underserved area" must meet the definition of a "local community." Further, it applied to "underserved area" and community charter applicants alike the existing requirement to submit a supplemental letter supporting the existence of interaction and common interests in the community. The final rule retains the "local community" clarification, but preserves for "underserved area" applicants the existing exemption from the requirement to submit a supplemental letter.

Second, the proposed rule made explicit the process of applying the "criteria of economic distress" to ensure that credit unions implement the prescribed "geographic units," and apply the prescribed population threshold to a proposed area combining "distressed" and non-"distressed" units. The final rule retains the explicit references to these two components of the "criteria of economic distress."

Third, to update and clarify what documentation is needed to establish an area's "significant unmet needs" for loans and financial services, the proposed rule required a stand-alone "narrative statement" identifying those unmet needs and documenting them with statistics. The final rule treats the existing "credit and depository needs" criterion as the functional equivalent of the "significant unmet needs" criterion. It then requires the credit union, in a one-page section of its business plan for the proposed area, to address unmet "credit and depository needs" from among a list of authorized credit union services. The existence of those unmet needs must be supported by objective reasons and/or documentation from authoritative sources of the credit union's choice, which may or may not include statistics.

Fourth, to demonstrate that an area is "underserved by other depository institutions," the proposed rule established a methodology for using publicly available data to compare the concentration of depository institution facilities in the area as a whole against a "benchmark" concentration of facilities in the area's non-"distressed" parts only. The final rule retains the proposed methodology, but significantly eases the burden on credit unions by making NCUA responsible for supplying them with data that is essential to the comparison: tract-by-tract totals of the number of depository institutions facilities in the proposed area.

Finally, the proposed rule "grandfathered" a credit union once it received approval to serve an "underserved area." However, the rule did not "grandfather" the "underserved area" itself for other credit unions to serve because over time it may not continue to meet the "distress," "significant unmet needs" and "underserved by other depository institutions" criteria. Thus, for each additional credit union that applies to serve an area previously approved as "underserved," the area must be requalified under each of the three "underserved" criteria. The final rule retains this requalification requirement, but does not require an applicant to demonstrate that the area is still "distressed" if no new decennial U.S. Census has been published since the area was last approved as "underserved."

**RECOMMENDED ACTION:** Recommend the Board adopt the final rule with an effective date 30 days after publication in the Federal Register.

**ATTACHMENT:** Final Rule IRPS 08-2, revising NCUA's Chartering and Field of Membership Manual, IRPS 03-1, as amended by IRPS 06-1.