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JAN20'16 PM 3:40 BOARD

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Mr. Poliquin:

Re: Comments on NCUA's Field of Membership Proposal

On behalf of First Source Federal Credit Union, I am writing to you regarding the National Credit Union Administration's (NCUA's) proposed rule amending the Chartering and Field of Membership (FOM) Manual. We appreciate NCUA's initiative in this rulemaking in an attempt to provide meaningful regulatory relief to credit unions within the bounds of current statute and welcome the opportunity to comment on this proposal. The credit union industry has long advocated the need for Field of Membership modernization, has felt that the agency has taken a much too conservative interpretation of the statute in the past and very much appreciates the NCUA Board taking the initiative to address this important issue.

Modernizing Field of Membership rules for Federally Chartered Credit Unions is especially important in light of action taken in many states, including New York State, in enhancing FOM rules for the state chartered credit unions we compete with. In many cases, the federal charter has been put to a disadvantage due to more appealing state charters. We believe it is important to put federal charters on equal footing with state charters to avoid an exodus of federal charters to the state alternative.

Meaningful FOM reform will assist credit unions in diversifying their membership base and provide long-term financial stability.

We applaud NCUA for proactively seeking out feedback from stakeholders in the industry.

Key Points

- Though legislation is necessary to resolve certain limitations on FOM rules, there is much that can be enhanced within the existing statute. This rule provides much needed regulatory relief by streamlining NCUA's Chartering and FOM procedures consistent with the current law, as well as removing many non-statutory constraints on FOM chartering and expansion.

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- This proposal represents a modernized approach to keep pace with changes in state laws, technology, and the financial services industry.

- Community charters, especially those that serve small metropolitan statistical areas, are unjustly limited in their ability to grow under the current rules, and this proposal will allow them to expand into adjacent areas within the confines of the *Federal Credit Union Act*.

- By providing more avenues for community charters to grow, the proposal will not only increase consumer choice in the marketplace but it will also increase access to affordable financial services.

- While the proposal offers considerable improvement, there are several areas of the proposed rule that leave restrictions in place that are not statutorily mandated. In these areas NCUA could provide further regulatory relief and should do so, such as removing arbitrary population caps and providing the opportunity for community charters to make a narrative case in support of geographical boundaries beyond census bureau community definitions such as Metropolitan Statistical Areas (MSAs) and Combined Statistical Areas (CSAs).

Population Limit of a Well-Defined Area

Currently, NCUA applies a 2.5 million population cap to the entire population of the "Core Based Statistical Area" (CBSA) for a community charter, regardless of whether the portion a credit union seeks to serve alone satisfies the population cap. To tailor the 2.5 million population limit strictly to the community a credit union seeks to serve, the proposal would modify the "statistical area" definition to specify that "a CBSA, Metropolitan Division, or well-defined portion of either one, must in and of itself have a population of 2.5 million or fewer people." This change will ensure that the portion to be served qualifies as a well-defined local community if it falls below the population limit, even if the CBSA's population as a whole exceeds 2.5 million.

While our current population does not approach the 2.5 million cap, we appreciate NCUA's initiative in this rulemaking to tailor the population cap's application to only a desired area, rather than the entire CBSA. Under the current rule, credit unions often suffer the unintended consequence of being denied a portion of a CBSA because the entire population of the CBSA is above the cap. As the NCUA Board recognized in the preamble to the proposal, community charter requests are often denied because "the population of the whole [statistical area] exceed[s] the cap" even though the area requested is under the limit. This trend clearly illustrates that the current rule is an unnecessarily broad application of the population cap.

Credit unions will benefit by a change to more accurately analyze the population of the area that a credit union seeks to serve. Therefore, we support the proposed modification of the "statistical area" definition.

While credit unions nationally will be supportive of NCUA's proposed modification of the population cap's application, we would go one step further and recommend that the agency eliminate the 2.5 million population cap altogether. There is no statutory requirement to apply rigid population limits, core areas, or geographical boundaries for a "well defined, local community." A proposed area should not be disqualified as a "well defined, local community" simply because it exceeds a particular population size. In fact, that cap was added at NCUA's discretion in 2010, based on the belief that it becomes more difficult to demonstrate common interaction indicative of a community as population levels increase. Given the fact that every definition of "community" under the proposal continues to be predicated on statistics compiled and defined by other governmental agencies, we feel there is no logical justification for the inclusion of population caps. To put this into perspective, state credit union supervisory agencies have been approving statewide fields of membership for years without population limitations; rather, the FOM is granted based on the credit union's ability to serve.

There are many areas of the country that demonstrate common interaction indicative of a community, but would be excluded under this rule due to the capricious population limit. For example, in its 2010 FOM rule, NCUA cited the Office of Management and Budget (OMB) findings that Metropolitan Divisions often function as distinct social, economic, and cultural areas. However, of the 38 Metropolitan Divisions in the United States, almost one-third exceed the 2.5 million population cap, and would arbitrarily be excluded. Therefore, we believe that so long as a Metropolitan Division, or any defined area, regardless of size, shows evidence of commonalities, such as shared routine interactions, work experiences, and interests essential to supporting a strong credit union, such proposed areas should not be so disproportionately denied simply because they exceed 2.5 million people.

"Combined Statistical Area" as a Well-Defined Local Community

NCUA's FOM rules currently consider a Core Based Statistical Area, a Metropolitan Division within a CBSA, or a well-defined portion of either one as a well-defined local community. The proposal would introduce another statistical area, the "Combined Statistical Area," as a well-defined local community subject to the same 2.5 million population limit discussed above.

The proposal recognizes additional ways that credit unions can evidence why a particular area is "well-defined" and "local" in applying for charter changes. These new avenues track other federal government recognition, such the OMB. The Office of Management and Budget has recognized 169

Combined Statistical Areas that reflect "objective measurements of social and economic integration among an area's residents." Therefore while NCUA is recognizing areas that are already codified by OMB, it will be of significant help that the proposal allows CSAs to count as a "well-defined, local community." Additionally, and perhaps more importantly, it would permit many federal credit unions to serve more potential members who want and need affordable financial services. We support this change.

Congressional Districts as Well-Defined Local Communities

NCUA does not currently recognize Congressional districts as meeting the definition of a "well-defined local community." The proposal would recognize these individual Congressional districts as fitting the definition of a "Single Political Jurisdiction," qualifying each district as a "well-defined local community" without regard to population. In the event of redistricting, the proposal explains that a federal credit union that was approved to serve a Congressional District would be grandfathered to continue serving the area. However, the original Congressional District would no longer be available to be served by any other federal credit union.

Similar to the recognition of Combined Statistical Areas, NCUA's recognition of areas codified by other agencies of the United States government or state governments will significantly help community chartered credit unions that are looking for growth opportunities within the confines of the *Federal Credit Union Act*. By providing more avenues for community charters to grow, the proposal will not only increase consumer choice in the marketplace but it will also increase access to affordable financial services. We support this change as well.

Adjacent Areas to a Well-Defined Local Community

The proposal would permit the addition of adjacent areas to a community consisting of a Single Political Jurisdiction, CBSA, CSA, or rural district, by providing subjective evidence that residents on both sides of the perimeter interact or share common interests. The proposal would also require a credit union seeking to add a bordering area to establish: (1) a "sufficient totality of indicia of interaction or common interests among residents of the expanded community" based on subjective evidence, and (2) an ability and commitment to serve the entire expanded community through the credit union's business and marketing plan. NCUA will base decisions on a number of factors with respect to the proposed service area in its entirety, such as economic interconnectedness and government designations. It is important to note that the expanded community would still be subject to population limits.

We strongly support this aspect of the proposal because it will allow credit unions to add adjacent communities without dropping existing communities.

The current rules inhibit a federal credit union's ability to add adjacent political jurisdictions without discontinuing service to some of the communities it currently serves. Community charters, especially those that serve small metropolitan statistical areas, are unjustly limited in their ability to grow under the current rules, and this proposal will allow them to expand into adjacent counties within the confines of the *Federal Credit Union Act*. This proposed change is an important and indeed substantive change; one that will be welcomed by credit unions as it provided an additional layer of flexibility.

Narratives to Evidence Well-Defined Local Communities

NCUA defines a "well-defined local community" on the basis of two objective geographic units – a Single Political Jurisdiction or a US Census Bureau designated Core Based Statistical Area (CBSA), both of which are subject to a 2.5 million population limit. Under either option, a credit union must evidence statistically why a desired area fits within the geographically objective definition.

We would suggest that NCUA couples its current statistical based approach with an alternative *de novo* narrative approach completely independent of the restrictions and limitations inherent with Core Based Statistical Areas, Combined Statistical Areas, Metropolitan Statistical Areas, Metropolitan Divisions, and Adjacent Areas, subject to population caps. In other words, the agency should permit credit unions to present an independent case as to how they may serve a community without being arbitrarily disqualified because of statistical areas and population caps.

We would further urge the agency to include a clearly defined process for a credit union to submit a narrative case for any community that might not neatly fit into one of the aforementioned categories but yet can be documented to consist of a well-defined, contiguous and interactive community.

Merger Rules

The proposed rule is unfortunately silent on the issue of mergers. A discussion of Field of Membership modernization is incomplete without this conversation, and we would encourage NCUA to address FOM constraints in voluntary mergers. We expect the industry to continue to consolidate and this important issue should be addressed as part of the current discussion. The approval of mergers between credit unions with unlike fields of membership should be allowed and both FOMs retained if either credit union can be shown by narrative case to have a likelihood to fall below well-capitalized status in either net worth or risk-based capital within the next five years. If neither of the credit unions in a merger are likely to fall below well-capitalized within the next five years, a merger should still be allowed if the two credit unions can merge and maintain a FOM that would otherwise qualify as a regulatory compliant FOM under the federal

rules. If not, the continuing credit union in a merger between a federal and state charter will almost always be the state charter in that most states will allow greater FOM flexibility.

Conclusion

Again, we applaud the agency's willingness to consider amending the Chartering and Field of Membership Manual to provide much needed regulatory relief for the industry. This is, as we stated earlier, long overdue. We strongly support this proposal as a whole, although we encourage the agency to consider the above recommendations to go further as we believe you can within the statute in accordance with the suggestions contained herein. We believe that such action will further met the needs of America's Credit Unions and enable them to have managed growth with the diversification of membership necessary to remain competitive, safe and sound in today's challenging marketplace.

Very truly yours,

Michael J. Parsons
President/CEO