IOWA BANKERS ASSOCIATION

6800 NW 62nd Avenue
PO Box 6200
Johnston, Iowa 50131-6200
515-286-4300 • 800-532-1423
515-280-4140 FAX
www.iowabankers.com

February 7, 2016

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

Re: Notice of Proposed Rulemaking and Request for Comments – RIN 3133-AE31

Dear Mr. Poliquin:

On behalf of the Iowa Bankers Association (IBA), I am writing to express my concerns about the notice of proposed rulemaking regarding chartering and field of membership changes put forward by the National Credit Union Administration (NCUA). The IBA is an Iowa trade association with members compromising 98% of the state and national banks and federal savings banks located across the state. The proposed rule includes significant changes to existing definitions of a well-defined local community, neighborhood or rural district that go far beyond what was contemplated by Congress in the passage of section 1759(b) of the Credit Union Membership Access Act in 1998. Although Congress has directed the NCUA Board to define what constitutes a well-defined local community, neighborhood or rural district, these proposed changes are inconsistent with Congressional intent and for these reasons the IBA opposes and respectfully asks the NCUA to rescind this proposed rule.

Community Chartering Changes

As stated above, the NCUA proposes to significantly expand the definition of a well-defined local community, neighborhood or rural district by (1) treating a "combined statistical area" as a single well-defined community; (2) adding an "adjacent area" to the perimeter of a core-based or combined statistical area; (3) recognizing an individual Congressional district as a "well-defined local community without regard to population; and (4) expanding the "rural" district population limit from the current 250,000 to 1 million.

Treating a "Combined Statistical Area" (CSA) and "Adjacent Areas" as a Single Well-Defined Local Community

Under current NCUA rules a "Core-based statistical area" (CBSA) or a Metropolitan division within such a community qualifies as "well-defined, local community" subject to a population limit of 2.5 million. The NCUA proposes to significantly expand this definition of "local" by including a "Combined statistical area" (CSA) as a qualifying community subject to the 2.5 million population limit. A CSA is defined by the U.S. Census Bureau as composed of adjacent metropolitan and micropolitan statistical areas that can demonstrate economic or social linkage and can be much larger than a CSBA. CSAs can represent multiple metropolitan and micropolitan areas and even adjoining CBSAs can qualify to become a CSA.

This geographic expansion proposal by the NCUA is made even more egregious by possibly adding adjoining communities to either a CBSA or CSA if there is "compelling evidence of interaction or common interests." This subjective analysis will require a narrative submitted by the applicant to the NCUA discussing how the residents meet the requirements for being in a local community. Applying these proposed changes to Iowa would allow a federally chartered community credit union to more than quadruple their geographic size in the Des Moines metropolitan area for example – where the current Des Moines core based statistical area is made up of five Central Iowa counties. These subjective qualifications when adding "adjacent areas" to a well-defined local community" would quickly balloon such a charter to 22 counties covering about a quarter of the state and nearly half of the state's 3 million residents. If rural or other combined areas (the proposed rules are not clear on this point) could also be added a federal community charter could cover nearly all of the state of Iowa and still be within the $2.5 million population threshold.

This particular part of the proposal is in stark contrast to Congressional intent of imposing limits on community credit union charters and is beyond any reasonable interpretation of the word "local." Congress when enacting the term "well-defined *local* community…," in the 1998 Credit Union Membership Access Act understood if credit unions were to fulfill their public mission of serving people of "modest means," there needed to be a legitimate bond among members. Credit unions focused on this type of geographic growth and have abandoned the traditional "union" concept and when opening up its membership to a majority of Iowa citizens has clearly embraced a profit motive.

This phenomenon is occurring right now in Iowa with several state-chartered credit unions that have a geographic community charter of well over half of the counties in Iowa – covering several mutually exclusive metropolitan statistical areas. These credit unions focused on such growth have an incentive to retain excess profits in order to build its capital base to expand, build more branches and serve an ever-growing number of people.

For members of such credit unions, profits that would normally be returned to them are now permanently retained as the institution leverages this government subsidy beyond any reasonable interpretation of the term "local" or "common bond." These members will never have access to this capital and have essentially been forced to make an investment in a venture they will never recover. These proposed rules – that significantly expand the geographic size of a federal community credit union charter would only exacerbate this "profit" motive.

Recognizing an Individual Congressional District as a "Well-Defined Local Community" Without Regard to Population

The proposed rule states the NCUA Board since 1999 "has maintained that neither a Congressional district nor a whole state qualifies as a well-defined local community…" In an "about face" of this existing policy, the NCUA Board is now proposing to recognize each Congressional district as a qualifying local community by giving two different rationales. First, the NCUA states that since 1999, it has approved 21 "Single Political Jurisdictions that each have a population in excess of 1 million, while the average population of the United States'435 Congressional districts is 710,767." Second, the NCUA proposal changes course from the existing rules by stating that Congressional districts reflect "interaction and common interests among each district's constituents……" This change will immediately result in creating a statewide field of membership in seven states across the country – turning their current rules on their head. The logic where all congressional districts reflects common interaction and interests could easily be expanded to say that a resident of any part of one state is benefitted for the purposes of federal representation, as this expansion has no rational relationship to a well-defined *local* community. Even in Iowa, where there are four Congressional districts, each of these districts cover several separate and mutually exclusive CBSA's along with rural areas – and would hardly be consistent with Congressional intent regarding limits of a "local" community.

Expanding the "Rural" District Population Limit from the Current 250,000 to 1 Million.

The NCUA also proposes to expand the rural district population limit by four times the current threshold to one million people as long as either, (1) more than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by either the Consumer Financial Protection Bureau (CFPB) or the U.S. Census Bureau; or (2) the district has a population density of 100 persons or fewer per square mile.

Iowa currently has 73 of its 99 counties that are designated as "rural" CFPB in 2016. Because of the predominately rural nature of our state, this rule change by the NCUA would allow a significant geographic expansion of a federally chartered credit union beyond any reasonable interpretation of a "local" community or rural district. Such a charter could cross several Congressional districts and even neighboring state boarders according to the proposed rule.

In conclusion the IBA feels such a broad expansion of field of membership undercuts Congressional-mandated limits and will lead to an even further expansion of the credit union industry's tax subsidy. According to the Treasury's Office of Tax Analysis, the subsidy is already valued at $26.75 billion over the next 10 years. This abuse of regulatory authority distorts marketplace dynamics and will increase the overall credit union tax subsidy at a time when the federal government is operating at a record budget deficit. The IBA strongly recommends you respectfully rescind the proposed rule.

Thank you for taking our comments into consideration.

Sincerely,

Robert L. Hartwig

Legal Counsel