

From: [John McKenzie](#)
To: [Regulatory Comments](#)
Subject: Indiana Credit Union League Comments on NCUA Proposed Rulemaking for Part 701- Chartering and Field of Membership Manual
Date: Wednesday, February 03, 2016 5:06:56 PM

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

Re: Proposed Rulemaking for Part 701- Chartering and Field of Membership Manual

Dear Mr. Poliquin:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the National Credit Union Administration's Proposed Rulemaking for Part 701- Chartering and Field of Membership Manual. The ICUL member credit unions represent 97% of assets and members of Indiana's credit unions, with those memberships totaling more than two million consumers.

We appreciate the NCUA Board thoroughly reviewing the field of membership (FOM) regulations and proposing modernizing them in ways that provide greater flexibility to credit unions to serve consumers in the communities in which they are located. Overall, we support the proposed changes to the FOM regulations and encourage NCUA to continue to look for opportunities to further improve the regulations within the framework of what is allowed by the Federal Credit Union Act (FCUA). It appears that NCUA historically has operated under a very conservative interpretation of the authority given in the FCUA, and we welcome the apparent change to applying a less conservative interpretation and looking to allow federal credit unions (FCUs) the opportunity to bring access to the benefits of credit union services to more consumers.

We are firm believers in the dual chartering system, and believe that the proposed changes strengthen the federal charter option by moving the FOM regulations closer to the more flexible FOM options available under many state credit union acts. When we see conversions from federal to state charters, the less restrictive FOM regulations afforded under the Indiana State Credit Union Act are cited as the primary driver of the charter change. The following provides some additional input on several of the specific recommendations in the proposed rule.

We do not agree with the proposed rule maintaining the 2.5 million population limit on core based statistical areas (CBSA) for the CBSA to qualify as a well-defined local community (WDLC). It has been demonstrated through specific FCU FOM requests, that it is possible for an area with a population in excess of 2.5 million to meet the WDLC definition. NCUA has approved community charter requests that include populations of up to 10 million individuals. We recommend that NCUA consider increasing this population limit to 10 million based on the prior approval of FOMs with populations between 2.5 million and 10 million.

We support the proposal to allow a FCU to request to serve a portion of a CBSA that does not include the "core" of the CBSA as is currently required. Often the "core" area of the CBSA is also the largest population concentration. Allowing credit unions to serve a portion of the CBSA that does not include the "core" affords the opportunity for a credit union to request a FOM that more reasonably fits the ability of the credit union to serve. Under the current regulation, a credit union may find itself requesting a larger area than what is really wanted, stressing its resources in an attempt to serve that larger area. Not having to include the "core" area will allow credit unions to be more realistic in the areas requested, and positioned to be more successful in providing services to that smaller area. We also support the application of the population limit to only the area being requested and not the full CBSA.

We support the proposal to include the Office of Management and Budget's Combined Statistical Areas (CSA) as well defined local communities. As with the other CBSA that OMB identifies, sufficient interactions and common interests already have been identified to support the OMB's designation of a CSA. We believe that if NCUA is going to utilize the OMB designations of CBSA, then all of the designations should be included.

We strongly support the proposal to allow a FCU to include an "adjacent area" to its WDLC based on the FCU submitting proof of sufficient interaction and common interests between the CBSA and the adjacent area. Under the current regulations, many credit unions would be limited to a single county as the broadest CBSA that could be requested. Many times, these single county CBSAs are in less populated portions of the state, which results in forcing interaction and common interests with the surrounding counties or other single political jurisdictions. The ability to add adjacent areas will allow FCUs to serve communities that would otherwise potentially not have access to credit union services. We recommend that NCUA also add back the provision that if the requested FOM, including the CBSA and requested adjacent areas, has been previously approved by NCUA as a WDLC for another credit union, that the requesting credit union would not be required to prove again that the requested area constitutes a WDLC.

We support the proposal to recognize each single Congressional district as a Single Political Jurisdiction, qualifying each as a WDLC, and therefore eligible for credit union community charter FOM requests. While this does create some challenges when redistricting occurs, we believe NCUA is properly addressing this through the grandfather clause being proposed.

We agree with the proposal to expand the population limits for rural areas from 250,000 to 1,000,000. We also support the proposal allowing for multiple options to identify a given area as rural and the continuation of allowing rural areas to cross state borders. We do not take issue with the proposal to limit the boundaries of a requested rural area that would overlap state boundaries to not exceed the boundaries of the states that are "immediately contiguous" to the state in which the FCU serving the rural district is headquartered.

We support the proposal to include members' online access to services in determining if a group being added is within "reasonable proximity" to the credit union wishing to add the group to its FOM. In today's ever increasing electronic transaction environment, it makes sense to look beyond brick and mortar locations in deciding whether or not a credit union can meet the needs of prospective members. Overall, in person transactions at branch locations continue to decline for all financial institutions, being replaced by electronic transactions. When evaluating financial institutions, quite often consumers rely more on electronic access to services in making a decision more than on how many or where branch offices are located. We are concerned with the part of the proposed changes that appears to limit the definition of service area to "one or more discreet political jurisdictions such as a county or a city" in defining reasonable proximity. In the commentary it is stated that, "While the Board historically has discouraged using mileage and distance factors exclusively to define reasonable proximity, it acknowledges that there may be an appropriate level of certainty in also defining reasonable proximity to encompass a city or county jurisdiction." We believe that just as NCUA recognizes the importance of, and shift to, electronic services, there also should be recognition that electronic services significantly expands the area to which services can be reasonably provided. It is not clear from the commentary if the Board intends to use this revised definition of reasonable proximity to establish firm limits as to the areas a credit union can reasonably serve, thus overriding its previous statements that mileage and distance factors should not be used exclusively to define reasonable proximity.

We support the proposal to allow a FCU to add employees of office/industrial park tenants as one SEG to its FOM. We do not take issue with the limitations that each tenant within the group have fewer than 3,000 members and that membership eligibility is only to those employees who work regularly at the park during their employer's tenancy. We also support the inclusion of any new tenants to the industrial park automatically being included in the overall group.

We support the expansion to multiple group credit unions the ability to add individuals who work regularly for an entity that is under contract to any of the multiple select employee groups (SEG) sponsors listed in

the credit union's charter, provided the contractor has a "strong dependency relationship" with the SEG sponsor. Given that there are many instances where large corporations have outsourced certain functions to "independent contractors" as a means to reducing costs, it is important that these individuals that may be doing the same job functions performed as an employee of the corporation do not lose the availability of credit union services because of this new label. Given that single group credit unions have had the ability to add contractors and the FCUA does not distinguish between single group and multiple group credit unions with respect to adding contractors, it makes sense for this change to be made.

The proposal also includes adding vendors and suppliers with a "strong dependency" to the group represented by a Trade, Industry or Profession (TIP) charter. We support this proposal. Just as it makes sense to add employees of contractors to multiple group credit union charters, it makes sense to make a comparable change for the TIP charter.

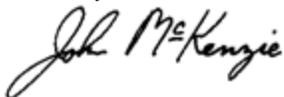
We support the proposed multi-tiered evaluation approach for the addition of employee groups by multiple common bond credit unions. We agree that no change is necessary for groups with total employees less than 3,000. We support the less strenuous feasibility test for groups between 3,000 and 5,000. We concur with NCUA's assessment that groups of this size have demonstrated a greater likelihood that it would not be feasible to start their own credit union. The Board asked for feedback on whether or not the 5,000 potential member threshold should be a higher number. We believe there is validity to the comment by NCUA that the threshold may need to be higher to reflect the potential for actual members versus potential members. Given the increased regulatory burdens that credit unions are facing, the challenges of starting a new credit union have increased dramatically. The systems that need to be in place from the beginning have increased the costs of having a credit union. In order to cover these costs, a higher number of active members becomes very important. As NCUA has stated, the number of potential members does not guarantee a specific number of actual members. We believe that NCUA should consider at least 10,000 potential members as the threshold to require a more detailed feasibility study as to the merits of the group starting their own credit union.

We fully support the proposal to allow FCUs to add the honorably discharged veterans of any branch of the United States Armed Forces listed in the credit union's charter to the FOM. We concur with NCUA's evaluation that this would "honor the contributions of those serving in the United States Armed Forces," and would "give them the benefit of access to credit union service throughout their lives following active duty."

Thank you for the opportunity to comment on the proposed Chartering and Field of Membership Manual revisions. We are encouraged that NCUA was willing to approach this revision in a way that provides greater flexibility to credit unions wishing to serve a broader FOM than what would currently be allowed. We encourage NCUA to continue to look at regulations from the standpoint of not regulating beyond what is required by the FCUA. NCUA can continue to monitor safety and soundness through the examination process, and does not need to address "potential" safety and soundness concerns with onerous regulations.

We appreciate the desire of NCUA to be more flexible and to provide regulatory relief and ask that this continue to be the focus of new and proposed regulatory changes. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive style with a large initial "J" and "M".

John McKenzie
President, Indiana Credit Union League