



Submitted via email: regcomments@ncua.gov

Dec. 9, 2016

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

Re: Notice of Proposed Rulemaking re Community Common Bond
RIN 3133-AE31

Dear Mr. Poliquin:

On behalf of Wisconsin's credit unions® and their 2.84 million members, the Wisconsin Credit Union League is commenting to express its support of the National Credit Union Administration's (NCUA's) proposed amendments to the recently published chartering and field of membership (FOM) rules.

We back the NCUA's efforts to maximize public access to federal credit unions (FCUs), and we appreciate that the agency is considering recommendations The League and other commenters made earlier this year. The proposed amendments should be adopted, though we feel that a few additional improvements should be made in the final rule.

Narrative approach

We support the proposed return of the so-called "narrative model." Under the proposal, an FCU could submit a narrative, supported by appropriate documentation, to demonstrate that the community it proposes to serve qualifies as a well-defined local community (WDLC) based on common interests or interaction among the area's residents.

In 2010, NCUA abandoned the narrative model, replacing it with the "presumptive community" model (under which either a "Single Political Jurisdiction" or a "Core Based Statistical Area" could qualify as a WDLC). Under the NCUA's recently finalized FOM amendments, the narrative approach became available once more, but only to add an adjacent area to an existing community. The restoration of the *complete* narrative approach would give FCUs added flexibility to expand their fields of membership, allowing them to serve more American consumers. Defining a "community" solely by reference to a statistical area or political subdivision may not accurately capture what ties a real community together.

We have two suggestions that we believe could improve the proposal:

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Member Credit Union National Association

- The NCUA seems to have captured 13 compelling criteria that an FCU would need to document to show common interests or interaction among residents of a proposed community. The proposed text of the revised appendix tells an FCU to address “any other criteria it believes are persuasive.” To further clarify that an FCU’s narrative is not limited to the 13 criteria, it may help to add a 14th catch-all category and encourage FCUs to address unique or unforeseen factors that may help to support a narrative application. (Additionally, we like the proposed three-tiered system of persuasive effect. It should help FCUs focus their applications on the most relevant issues to help the NCUA assess whether an area qualifies as a local community.)
- The NCUA’s summary of the proposed rule stresses that an FCU need not satisfy all 13 criteria:

An area need not meet all of the narrative criteria to qualify as a local community; rather, the *totality of circumstances* within the criteria a credit union elects to address must indicate a sufficient presence of common interests or interaction among the area’s residents. *[Emphasis added.]*

We agree, but this “totality of circumstances” language is missing from the proposed text of the revised appendix itself. We believe that the NCUA should emphasize this point in the FOM manual, not relegate it to supplemental material in the proposal. It will be important in coming years that NCUA staff and affected FCUs remain aware that the “totality of circumstances” governs the approval of narrative applications, and this is best achieved by addressing the issue in the revised appendix.

10 million population limit

The proposed rule would increase (from 2.5 million to 10 million) the population limit that applies to a community consisting of a Core-Based Statistical Area (CBSA) or Combined Statistical Area (CSA) or other area an FCU designates, subject to an FCU’s ability and commitment to adequately serve the area. The increase is certainly a significant improvement, and we generally support it. As CUNA points out, it matches the current population of Los Angeles County, which is the largest Single Political Jurisdiction in the United States.

However, we believe that the population cap should be eliminated, not just increased, for at least two reasons:

- The cap is arbitrary. The proposal cites “adverse safety and soundness consequences attributable to” such large population sizes. Are the potential consequences any different if an FCU serves a statistical area with a 9.9 million population vs. a 10.1 million population? The NCUA has not made a compelling case for setting a bright-line population limit, whatever the size, and 10 million seems no less arbitrary than 2.5 million.
- The cap would artificially limit FCU expansion. Rather than set an arbitrary population ceiling, the NCUA should approve FOM applications based on the FCU’s demonstrated ability to serve members within a community effectively and safely, regardless of population. If an FCU shows that it can adequately serve members within a large urban CBSA or CSA – which has become increasingly feasible with online banking services and other technological advances – why prohibit those people from joining the FCU?

The FCU Act does not require the cap, which lacks a rational basis and is unnecessary, and so we urge the NCUA to remove it. If the NCUA retains the population limit, we suggest that it be tied to the population of the most populous Single Political Jurisdiction, so that it increases as that jurisdiction grows. Otherwise, the limit will become outdated over time and require adjustment via future rulemaking.

Conclusion

We appreciate the NCUA's work to continue easing unneeded FOM restrictions on FCUs. While we have recommended certain areas of improvement, we fully support the NCUA in its efforts to make FCU membership available to more people and to ease the burden on FCUs seeking to expand their membership.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Guttormsson", with a long horizontal flourish extending to the right.

Paul Guttormsson
Legal Counsel
The Wisconsin Credit Union League