



December 9, 2016

**VIA EMAIL**

Mr. Gerard S. Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314  
RIN 3133–AE31  
[www.regulations.gov](http://www.regulations.gov)

**Re: Chartering and Field of Membership Manual; RIN 3133–AE31.**

Dear Mr. Poliquin,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 270 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposed rule to amend its chartering and field of membership rules.

WBA is gravely concerned over NCUA's proposed rule expanding the field of membership rules which would permit the establishment of a well-defined local community (WDLC) through a narrative approach, and WDLC qualification through a population cap increase in statistical area from 2.5 million to 10 million. WBA strongly opposes the proposed rule. The proposal is based upon an unreasonable interpretation of the term local community and is a reach beyond NCUA's underlying statutory authority.

NCUA is charged with the responsibility to supervise, examine and regulate federal credit unions to insure compliance with the laws enacted by Congress. As NCUA observes in its proposed rule, the Federal Credit Union Act (FCUA Act) requires NCUA to prescribe, by regulation, a definition for the term "well-defined local community, neighborhood, or rural district." NCUA emphasizes that this section of the FCUA Act gives it broad discretion to define a WDLC for the purposes of making any determination regarding a community credit union, and to establish criteria to apply to any such determination. Under that asserted authority, NCUA proposes, in a new appendix to the Chartering Manual, a set of narrative criteria to identify a WDLC that a credit union should address in the narrative it submits to support its application to charter, expand, or convert to, a community credit union.

NCUA employed a narrative model in the past, subsequently abandoned it in 2010, and more recently re-adopted an iteration of it for the sole purpose of adding an adjacent area to an existing or new community. This proposal is an attempt to return to a broad narrative approach for the initial establishment of a new community – something NCUA abandoned nearly seven years ago. WBA sees no valid reason or authority to return to this approach. If NCUA adopts the proposal as final, it will in essence expand credit union membership to the point where there are

no true boundaries, and will have transformed credit unions to de facto banks while still retaining the tax advantages afforded credit unions. This is without question not what Congress intended.

WBA acknowledges that by final rule, NCUA has revived a version of the narrative approach, albeit for a very narrow purpose. However, WBA opposes adoption of the proposed rule as the narrative approach is not an appropriate means to accurately establish the existence of a WDLC. Congress has directed the NCUA to apply its regulatory expertise to define the term well-defined, not for NCUA to ask credit unions to create their own definitions to then be submitted to NCUA for approval. This goal is achieved through the current approach, being an objective approach which provides a definition of well-defined through the presumptive community options based upon political jurisdictions or core based statistical areas, providing a consistency and definition that the narrative approach cannot achieve. Per NCUA's field of membership manual well-defined means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (single, multiple, or portions of a county) or their political equivalent, school districts, or a clearly identifiable neighborhood. Although congressional districts and state boundaries are well-defined areas, they do not meet the requirement that the proposed area be a local community or rural district.

In the proposed rule NCUA acknowledges the functional benefit of the presumptive community model, but observes it may be too limiting if it confines credit unions to presumptive community options that may be unsuited to their purposes and ability, leaving them with no recourse but to accept an area other than the one they ideally seek to serve. However, WBA believes that giving credit unions such broad latitude to undertake their own definition of well-defined does not follow with Congress's directive that NCUA prescribe a definition for the term well-defined local community. For the above reasons, WBA opposes the proposed rule's expansion of the narrative model as a means to establish a WDLC.

The proposed rule would also increase the population limit for qualification as a WDLC from 2.5 million to 10 million. WBA does not believe by any stretch of reason that a population of 10 million qualifies as a well-defined local community. WBA acknowledges that a community can come in various population sizes, but the word "local" necessarily means a limit that is confined to a nearby or immediate area. A population limit of 10 million makes a mockery of the notion of "local" much less the term "local community." While NCUA believes that an increase to 10 million reflects the natural growth of population sizes in anticipation of an increase in population of areas already at the threshold of 2.5 million, it provides no in-depth analysis to justify or support this arbitrary, massive increase. Many federal credit unions are already suggesting, as evidenced by comments already submitted on this proposal, that NCUA remove the population cap entirely. Such comments underscore our concern that by inflating the population cap to 10 million, NCUA is rendering the threshold meaningless.

NCUA has previously relied upon evidence, such as metropolitan statistical areas (MSA), to justify the current population cap of 2.5 million. For example, to determine in its 2010 final rule that 2.5 million is a logical breaking point in terms of community cohesiveness, NCUA relied upon the standards for defining MSAs, citing the definition of Metropolitan Division, being a county or group of counties within a Core Based Statistical Area that contains a core with a population of at least 2.5 million. However, in its proposal, NCUA does not rely upon similar logical grounds to support the increase from 2.5 million to 10 million.

Instead, NCUA relies upon three "grounds" to justify a population limit of 10 million. First, NCUA finds that such an increase would be appropriate to conform population sizes to the population of Los Angeles County. Second, NCUA believes that an increase in population limit to 10 million

is required to minimize disparity between communities of that size which are not a single political jurisdiction (SPJ) and those that are. Finally, NCUA justifies the population increase because it would narrow the inherent imbalance between federal credit unions subject to the population cap and uncapped state credit unions. WBA does not find these three grounds for a population cap to be a sufficient reason to blur the definition of WDLC toward total inclusiveness.

The existence of a populous county such as Los Angeles County, which qualifies as an SPJ, is an anecdote, not a logical reason to increase the population cap across the board. NCUA seems to suggest furthermore that because Los Angeles County qualifies as a WDLC despite its population size as an SPJ, this should permit an unbinding of population limits upon those communities not comprised of an SPJ. WBA would like to remind NCUA that it includes SPJs within the current definition of WDLC because they meet reasonable objective and quantifiable standards. An SPJ also has strong indicia of a community, including common interests and interaction among residents. This should not be automatically assumed of other populous areas. Indeed, there are entire states in this country that are not that large.

Furthermore, WBA does not believe that because nine states set population limits above 2.5 million that NCUA, a federal regulator, should execute a similar population increase. NCUA's decision should stem from its own regulatory expertise and statistical analysis. For the above reasons, WBA strongly opposes the proposed population cap increase of 2.5 million to 10 million.

In summary, WBA reiterates its concern that if this proposed rule is finalized, few field of membership requirements will remain, permitting credit unions to expand their membership well beyond statutory limitations. NCUA's proposed rule effectively invalidates Congress' statutory restrictions of "local" and "well defined." The proposed rule will inappropriately result in larger credit unions serving larger areas contrary to the original purpose of the preferential tax exemption. WBA believes this proposal is merely a cloaked attempt to eliminate any reasonable boundaries that would otherwise limit credit union membership.

WBA appreciates the opportunity to comment on NCUA's proposed field of membership rules.

Sincerely,



Rose Oswald Poels  
President/CEO