



February 8, 2016

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

RE: Notice of Proposed Rulemaking Regarding Associational Common Bond – RIN333-AE31

Via e-mail: regcomments@ncua.gov

Dear Mr. Poliquin,

The Michigan Credit Union League (MCUL), the statewide trade association representing 99% of the credit unions located in Michigan and their 4.8 million members, appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposed revisions to the Chartering and Field of Membership Manual. The MCUL commends the NCUA on its efforts to enhance the otherwise stagnant nature of the agency's current Field of Membership requirements. The MCUL shares the Credit Union National Association's (CUNA) concern that the federal charter is lagging behind many state charters.

Michigan is known to have one of the strongest and most progressive state charters in the country. The MCUL believes in the importance of a strong dual chartering system as a strong dual chartering system creates incentive for the NCUA and state regulators to promote policies that allow broader operating authority for credit unions and impose fewer constraints on credit union operations. Due to the outdated language in the federal charter, Michigan is seeing a number of federal credit unions convert to the state charter.

The MCUL recognizes the Federal Credit Union Act (FCUA) restricts the ability of the NCUA to modernize the federal charter. However, the MCUL believes the NCUA is fully empowered to make the significant enhancements to the federal charter under this proposal.

Overall, The MCUL is very supportive of the changes put forth by the NCUA. However, the MCUL would like to take the opportunity to address some improvements prior to issuance of a final rule.

Comments on Further Improvements

Merger Process Improvement

The MCUL, together with the Credit Union National Association (CUNA), believes the NCUA should facilitate mergers between credit unions with unlike fields of membership when there is no desire to retain the merged credit union's field of membership by establishing a process that eliminates the need for conversion. Michigan, like the rest of the nation, is seeing a significant number of credit

union mergers. When two unlike credit unions merge, more often than not the state charter is the surviving charter upon completion of the merger. Adopting the state charter allows the surviving credit union to facilitate greater access for members. Michigan has seen a significant number of such mergers. In discussing the proposal with a member credit union that recently concluded a merger of like credit unions in both size and complexity, yet of different charters, the state charter was adopted. As the NCUA is aware in 2003 Michigan updated the Michigan Credit Union Act to strike a number of antiquated provisions including provisions related to field of membership. These changes streamlined and eliminated costly and unnecessary demographic analysis, and encouraged field of membership diversity to promote credit union resiliency which is especially important in a dynamic economy like Michigan.

The current NCUA process requires that the credit unions first complete the approved charter change. This allows both credit unions to have compatible fields of membership. Then the NCUA allows the merger to be completed. NCUA could simplify this process by providing clear guidance stating that the merged credit union can change its field of membership and approve the merger in one step. An update to the NCUA's chartering manual would be required for the charter conversion to be completely removed from the process. Additionally, NCUA should be more flexible in using its merger authority so a Federal Credit Union does not have to be in steep decline before the NCUA allows a merger with another credit union. This would encourage a merger partner to be more willing to complete a merger without receiving assistance from the NCUA.

Charter Conversions

The MCUL echoes CUNA's comments regarding charter conversions for state and federal credit unions alike. The NCUA should permit Federal Credit Unions that convert to a community charter to keep approved select employee groups (SEG) in their field of membership that are outside the boundaries of their new community. Converting to a community charter could result in the credit union losing previously approved SEGs. There are credit unions that have both communities and SEGs in their field of membership because of an emergency merger. This precedent could be extended to conversions so credit unions could switch to the charter that best fits the needs of the credit union while allowing it to continue to serve all existing members while also allowing it to add new members from a SEG. The potential loss of a SEG could possibly lead to business decisions that are not in the best interest of the credit unions long term health.

A strong dual chartering system is key to the strength of the credit union system. In an environment where Federal charters are converting to state charters at a rapid pace in order to expand their field of membership the NCUA should take every opportunity to make the Federal charter as strong as, or stronger, than progressive state charters such as Michigan's. There is precedence through the emergency merger process for federal credit unions to have a field of membership that would not normally be allowed under NCUA rules. If these credit unions can keep the members and field of membership that would not otherwise be permissible, then other credit unions should have this opportunity as well.

In the same vein, the NCUA should also address expansion by credit unions with grandfathered fields of membership that do not fit under the current or proposed rules. Some credit unions, through mergers and other reasons, have fields of membership that keep them from expanding and serving

new members. Often, these are community chartered credit unions that serve fields of membership that already fit into one of the well-defined local community (WDLC) categories. For these credit unions to expand they need to drop communities or convert to a state charter. The NCUA should develop ways for these credit unions with legacy fields of membership to use the new regulations without dropping their old fields of membership, thereby abandoning members who still rely on them to provide needed financial services.

Comments on Proposed Rule

Community Chartered Credit Unions

Core Area Service Requirement

Currently when a credit union applies to serve a community consisting of a portion of a Core Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB), that portion must include the CBSA's "core area." The "core area" is defined as the most populated county or named municipality in the CBSA's title. The NCUA proposed rule attempts to provide federal credit unions easier access and ability to convert to a community charter, or expand an existing community charter, by removing the requirement to serve a "core area" if the credit union elects to serve a portion of a CBSA. The MCUL supports this approach as it will allow a federal credit union to grow at an appropriate scale consistent with its ability to serve a larger area.

The MCUL appreciates the NCUA's efforts to allow reasonable growth for federal credit unions by not requiring a "core area" to be served when seeking to expand an existing community charter. However, the MCUL has identified limitations that the proposal will continue to impose on credit unions. First, serving a CBSA is not required by the FCUA. Rather, this standard was developed by the NCUA as a way to describe a well-defined local community that is not a single political jurisdiction (county or city). Second, the MCUL believes the NCUA should not place limitations on service areas in a statistical area because these limitations or requirements can divide such areas into portions that do not represent a viable community or that may exclude the viable portions of a community. Third, we have seen criticism that the elimination of a credit union's requirement to serve the "core area" could allow credit unions to "redline." The very fact of the matter is that Congress and the NCUA have imposed Field of Membership restrictions on credit unions. These restrictions only allow credit unions to serve select groups of people, either defined by a common bond or community, is a restriction imposed on them by law.

For these reasons the MCUL supports the elimination of a credit union's requirement to serve a CBSA. Additionally, as credit unions have continually focused on serving members in underserved areas the MCUL also joins with CUNA in requesting that the NCUA asks Congress to amend the FCUA to allow all charter types to serve underserved areas.

Population Limit of a Well-Defined Local Community Based on Statistical Area

Currently, the NCUA Board permits a well-defined portion of a CBSA to qualify as a well-defined local community provided the population of the CBSA as a whole does not exceed the 2.5 million population limitation. To tailor the 2.5 person million limitation strictly to the community a credit union

serves, the proposal would modify the “statistical area” definition to specify that a CBSA, Metropolitan Division or well-defined portion of either, must itself have a population of 2.5 million or fewer people as opposed to the current practice of considering the entire statistical area.

The MCUL questions the NCUA’s rationale behind this element of the proposed rule as it clearly would render all CBSAs with populations in excess of 2.5 million unable to be used as a well-defined local community for a community chartered credit union. As such, the requirement would harm community credit unions wishing to serve a CBSA with populations that exceed 2.5 million that are made up of many small lesser population Single Political Jurisdictions.

The MCUL supports the NCUA’s proposal permitting a well-defined portion of a CBSA to qualify as a Well-Defined Local Community (WLDC). However, the MCUL recommends eliminating the 2.5 million person population limit on this particular portion of the proposal.

Addition of Adjacent Area to Well-Defined Local Community

To enable consumers to gain access to credit union services, the NCUA is proposing to permit the addition of such an area to a community consisting of a Single Political Jurisdiction, CBSA, CSA or Rural District. Credit unions wishing to utilize this provision to expand their field of membership would need 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.

The NCUA has indicated they will base their decisions in approving requests for expansion on a number of factors with respect to the proposed service area. These factors include:

1. Economic Interconnectedness
2. Population Centers
3. The existence of Quasi-Governmental Agencies
4. Government Designations
5. Shared Public Services/Facilities
6. The presence of Colleges and Universities

Credit unions that are community or rural district charters already have a proven track record of serving these communities. When a credit union serving a community or rural district seeks to expand into an adjacent community they should not face additional subjective restrictions. The MCUL supports the NCUA’s efforts to facilitate expansion into adjacent areas, but shares CUNA’s concern with the potential for the imposition of subjective policies or process hurdles that may make this provision less flexible.

Congressional Districts as a Well Defined Local Community

The MCUL supports the NCUA’s proposed use of a Congressional District as a Well Defined Local Community (WDLC) as proposed. The proposal would allow a Congressional district to be used as a WDLC without regard to population.

A Congressional District inherently defines a community with shared interests. Michigan is made up of up 14 Congressional Districts which are composed of compact, contiguous land areas that often have a smaller population than many Single Political Jurisdictions. Every Congressional District has a population less than the 2.5 million population limit currently allowed for a CBSA. Federal credit unions would recognize that the exact boundaries of a Congressional District might change every decade and these credit unions would be able to continue to serve anyone who is a member-of-record at the time of re-districting.

Michigan has a number of state chartered credit unions with a statewide field of membership. With its progressive state charter many of Michigan's federal credit unions continue to convert to a state charter. As previously mentioned, a primary factor of these conversions is the ability to more liberally expand their field of membership as a state charter.

Rural District Population Limits

The MCUL supports the proposal to increase the population limit for rural district charters from 250,000 to 1 million. Michigan has 43 counties designated as rural, most of these counties are located in northern Lower Michigan and the Upper Peninsula. These areas often have limited access to financial services and are in need of the financial services that credit unions offer. The current population limit of 250,000 is an arbitrary number. Increasing the population limit for rural areas to 1 million is a more appropriate measure.

Rural District Multistate-Expansion Limit

The MCUL does not support the requirement that limits rural district credit unions to serving only those states contiguous with the headquarters. The FCUA gives the NCUA the authority to define "rural district," and the goal should be to bring credit union services to consumers who otherwise do not have access to needed financial services. The only limitation should be the credit union's ability to serve the district in a safe and sound manner. With the advancements of internet banking, a credit union with an acceptable level of online banking services should be authorized to provide membership to people living in rural areas of the country. A population limit serves as an appropriate check on the area a credit union can serve. Any other restrictions are an unnecessary barrier to consumers gaining access to credit union services.

Multiple Common Bond Credit Unions

Reasonable Proximity through Members' Online Access to Services

Currently, the definition of "reasonable proximity" requires the establishment of a "service facility" including any one of a branch, a shared branch, a mobile branch with weekly visitations, or a credit union-owned electronic facility.

The NCUA recognizes that the rapid pace of technological advancement has had a dramatic impact on consumer behavior. The proposal seeks to amend the definition of "service facility" by extending it to include members of occupational select groups and pre-approved associational groups who have access to a credit union's products and services through an "online internet channel" such as a

transactional website. The proposal indicates the website must be capable of accepting shares for member accounts, accepting loan applications from a member, or disbursing loan proceeds to a member.

The MCUL supports the expanded definition of “service facility” to demonstrate “reasonable proximity” to a group. With today’s explosive growth of technology and digital communication platforms, today’s consumers’ adoption rates for new technology is ubiquitous and widespread. Technological advancements allow credit union members to form a cohesive bond and be related to each other regardless of geographic location. Individuals can connect to one another from anywhere and consumers and federal credit unions should not be penalized for adopting current technology to better serve and grow membership. Credit unions are in business to serve their members and their members have expressed a desire to utilize current technological solutions.

Not only does the MCUL support the approach put forth by the NCUA we encourage the NCUA to expand this definitional change to include underserved areas. The proposal begs the question; why would the NCUA Board not include such areas within the definition?

Inclusion of Select Employee Group (SEG) Contractors in a Multiple Common Bond

Under NCUA’s current rules, multiple common bond credit unions cannot add individuals who regularly work for an entity that is under contract to the sponsor of the SEG listed in its charter. Instead, the NCUA only allows a *single* occupational common bond to add these SEG contractors. This is only allowed if the contractor has a “strong dependency relationship” with that sponsor. The MCUL is pleased that the NCUA recognizes there is no distinction between a single common bond and multiple common bond credit union in this area. This proposal allows multiple occupational common bond credit unions the ability to add individuals who regularly work for an entity that is under contract to the sponsor of the SEG listed in its charter, so long as the contractor has a “strong dependency relationship” with that sponsor.

As the NCUA knows Michigan has a strong foundation and history in the manufacturing industry. Many credit unions were founded to serve employees of manufacturers, such as Dow Chemical, General Motors, Ralston (now ConAgra) Foods, Kellogg’s and Post to name a few. Many of these companies have contracts that provide for staffing or machine maintenance or other services, and have a strong dependency relationship with these contractors for ongoing operations of their industry. Employees of such contractors should have the ability to join a credit union serving these companies. The MCUL supports this provision of the proposal.

Trade, Industry or Profession (TIP) as a Single Common Bond

NCUA is proposing to clarify its definition of a TIP to include employees of vendors, suppliers, and contractors that have a “strong dependency” relationship on and work directly with other entities within the same industry. The proposal explains that a credit union would need to demonstrate that an entity is:

- “Strongly dependent” on the others within a TIP, *and*
- Shares a narrow commonality.

The existence of a “strongly dependent” relationship would hinge on the likelihood of a significant economic impact, on either or both parties. If one party were unable to continue operations without doing business with the other party.

The MCUL supports this provision as it will allow a TIP charter to serve those vendors, contractors, or other groups closely associated with a particular Trade or Industry. However, the question of whether the credit union will be able to demonstrate the “strong dependency” between the industry and the vendors and suppliers, as described in the NCUA’s example regarding the Air Transportation Industry puts up barriers and undue burden upon TIP credit unions attempt to prove the relationship.

Streamlined Determination of Stand-Alone Feasibility of Groups Greater than 3,000

The Federal Credit Union Act currently presumes that groups of 3,000 or more can form a credit union. However, in NCUA’s experience, groups between 3,000 and 5,000 members cannot feasibly or reasonably establish a new single common bond credit union. Currently an overlap analysis is required for groups between 3,000 and 5,000. The proposal would eliminate that analysis and subsequently accept a written statement indicating the conditions that exist supporting that a group cannot form its own credit union.

A Michigan Federal Credit Union has expressed their frustrations when attempting to add new SEGs to their field of membership. The MCUL shares the credit union’s concern with the archaic notion that if an employer has between 3,000 and 5,000 people they would be better off to form their own credit union. The scarcity of new credit unions over the past 10 years is evidence alone of the difficulty in forming a new credit union. The NCUA itself notes that 80 percent of credit union failures occurred in credit unions with fewer than 5,000 members. This calls to question what the actual need is for a statement that a group cannot establish a new single common bond credit union and subsequently prolong the process when a credit union is applying to add a new SEG of this size to its field of membership. Many credit unions with 5,000 members or less are generally \$25 million or less in assets and struggling to survive. Why would the NCUA tell an employer to start their own credit union in today’s environment when they could join an existing credit union as a new SEG?

Other Persons Eligible for Credit Union Membership

This proposal will allow a credit union to include within its common bond those who have been honorably discharged as a veteran of any branch of the United States Armed Forces listed in its charter, continuing eligibility for credit union membership beyond their time on active duty. The MCUL supports the NCUA honoring the service of our Armed Forces by providing access to credit union services beyond their active duty service.

Conclusion

The MCUL fully supports the NCUA’s proposed Field of Membership rule with regard to Congressional Districts as Well Defined Local Communities without change. The MCUL also appreciates and supports the NCUA’s proposed amendments including Select Employee Group (SEG) Contractors in a Multiple Common Bond and the clarification of its definition of Trade, Industry or Profession (TIP) chartered credit unions.

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
February 8, 2016

While the MCUL fully supports the NCUA's proposal as a whole, we believe there is work to be done prior to issuance of a final rule particular in the areas of merger process improvements and charter conversions. A strong dual chartering system is critical to the strengths of the credit union system as a whole. As such, we ask the NCUA to consider the recommendations discussed.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'KR' with a stylized flourish.

Ken Ross
Executive Vice President & Chief Operating Officer