



National Association of Federal Credit Unions

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March 28, 2006

Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Comments on Part 701; Chartering and Field of Membership Manual

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am responding to the National Credit Union Administration's (NCUA) request for comment regarding proposed amendments to its rules regarding field of membership requirements and service to underserved areas. NAFCU appreciates the opportunity to comment on this important proposal.

Due to uncertainty resulting from recent litigation challenging NCUA's existing chartering and field of membership policy, NCUA has proposed two amendments to the agency's underserved area policy. First, only multiple common-bond credit unions would be permitted to add new underserved areas to their fields of membership. Second, the underserved area service facility policy would be revised to require that credit unions have a branch or facility located in, not just near, the underserved area.

Impact of Limiting Expansions into Underserved Areas

Impact on the Underserved Consumer

NAFCU believes that eliminating the ability of single sponsor and community chartered credit unions to add underserved areas to their fields of membership will not benefit consumers and potential credit union members. Credit unions provide competitively priced products and services to their fields of membership. Credit unions also provide competition to other financial institutions in order to help keep their rates for products more affordable.

Should the option of adding underserved areas be eliminated for two out of the three charter types, the ability of more credit unions to reach underserved consumers will be curtailed.

For example, under the current rule 5,393 credit unions are potentially eligible to add underserved areas to their fields of membership; however, under the proposed rule, only 2,385 credit unions would potentially be able to serve underserved areas. Furthermore, should the proposal be adopted, the ability of credit unions to reach the underserved could be even further reduced due to economies of scale. For instance, should a “larger” community chartered credit union and a “smaller” multiple-common bond credit union occupy similar geographical areas, the smaller credit union may not have the facilities, staff or capital to add an underserved area to its field of membership. Under the proposed rule, the underserved area would continue to lack service by a credit union because the community credit union would also be unable to add the area to its field of membership.

Retention of Underserved Areas

The Board has also requested comment on whether, if only multiple bond credit unions are permitted to add underserved areas, they should retain these areas if they change charter type.

NAFCU believes that credit unions that have already added underserved areas to their fields of membership should be permitted to retain these areas in the event that they convert to a community or a single common bond charter. Consistent with the principle “once a member, always a member,” credit unions should be able to continue to serve their membership when a charter conversion occurs. Forcing a credit union to abandon an underserved area would be a grave disservice to those members most in need of access to financial services.

Further, credit unions that have adopted underserved areas have already expended considerable resources for facilities, equipment, staff training, and other capital investments. Credit unions should be permitted to preserve these investments in the event of a charter conversion.

Retroactivity

NAFCU does not support the retroactive application of the final rule. If the proposed amendments are adopted by the Board, NAFCU recommends that non-multiple common bond credit unions be permitted to continue to serve their underserved areas. NAFCU also supports the ability of these credit unions to take in new members in those areas. Many of our member credit unions would suffer real harm if they should have to divest themselves of underserved areas. For example:

- One credit union reported that they would suffer a \$2.6 million dollar write-off if it would have to close branches in underserved areas.
- Another credit union reported that it would lose \$1.3 million dollars if it would have to shut down branches in its underserved areas.
- One credit union reported that it has invested \$250,000 in a modular branch and is obligated to complete a \$1.6 million dollar permanent branch in the community.

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The existing members of the credit union would unfairly bear the financial losses incurred by a retroactive rule change.

Service Area Requirement

NAFCU does not support the amendment to the service area provision that requires that credit unions have a branch or facility located in, not just near, the underserved area. Some underserved areas are not large areas and there is no business practicality of putting a service facility in the area. For instance, one credit union indicated that they have two underserved areas that have a radius of 4.6 and 2 miles respectively and are in a rural area. The credit union has branches within 2.03 and 1.8 miles of the tracts. In this case, the credit union does not have a physical presence in the underserved area but the close proximity of the two other branches ensures the credit union's ability to serve the area in an active manner. Other credit unions have indicated that finding suitable branch locations is often a very big challenge, especially in low income areas. Reducing flexibility in establishing branch locations will most likely discourage some FCUs from adopting an underserved area.

NAFCU supports NCUA's careful consideration of this issue and its efforts to operate within the confines of the Federal Credit Union Act. NAFCU believes that all credit unions should be able to add underserved areas to their fields of membership and that it was not the intent of Congress to frustrate this ability when it passed the Credit Union Membership Access Act in 1998. NAFCU will continue to advocate for credit unions to serve the underserved by any means possible.

NAFCU would like to thank you for this opportunity to share its views on these proposed amendments to the agency's underserved area policy. Should you have any questions or require additional information please call me or Carrie Hunt, NAFCU's Senior Counsel and Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 234.

Sincerely,



Fred R. Becker, Jr.
President/CEO

FRB/crh/pwy