JSC
Federal Credit Union

June 18, 2007

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: NCUA Proposed Changes to 12 CFR Part 701 -Chartering and Field of Membership for Federal Credit Unions

Dear Ms. Rupp:

On behalf of the management and Board of JSC Federal Credit Union, I would like to take this opportunity to comment on proposed changes to 12 CFR Part 701 -Chartering and Field of Membership for Federal Credit Unions.

While the necessity of the current proposal could be debated at this time given that the current rules on a whole appear to be adequate when implemented and interpreted as drafted and intended, we appreciate the efforts the NCUA Board has taken in this proposal to clarify, modify and standardize documentation requirements for a local community. We support some of the changes as proposed but have significant reservations about others. To that end, please accept our comments on the following specific provisions of the proposal.

Federal Register Notice and Request for Public Comment

For a number of compelling reasons that are discussed in greater detail below, we strongly oppose the proposed procedure requiring notice of the proposed community charter to be published in the *Federal Register* for applications that do not meet established definitions of a well-defined local community.

In general, we would agree that public notice and comment periods serve valid and productive purposes when associated with a regulatory rule-making. In most cases, such public and notice comment periods are statutorily mandated by the Administrative Procedures Act. However, in the case of the current proposal there is no statutory mandate requiring the agency to implement such a procedure. In fact, the Credit Union Membership Access Act clearly gives the NCUA Board the authority to determine whether or not an applicant has met the statutory requirements to establish a well-defined local community. Absent such a statutory mandate requiring NCUA to establish a public notice and comment period for applications that do not meet established definitions of a well-defined community, we are of the firm opinion that the proposed public notice comment period will be counterproductive and will offer little, if anything, in the way of tangible benefit to the applicant or the agency.

In our view, the proposed Public Notice and Comment Period will potentially set a bad precedent by allowing comment periods on applications on every field of membership expansion request for communities that do not meet the standards of a presumed community. We fear that the proposed change could have a chilling effect on the number of credit unions willing to take the steps necessary to document a non-presumed community because of their unwillingness to allow opposition groups or other interests to make a public issue of their documented community. This would be unfortunate in our view and would essentially render the community charter process as a "one-size fits all, pick and choose" process where no real analysis of a credit union's strategic needs are considered and evaluated.

The proposed change will create unnecessary delays and will make NCUA Board decisions more difficult as they will have to overcome every stated objection before they approve a field of membership expansion request. We fear that adoption of this proposal could serve, over the course of time, to effectively render the NCUA Board to becoming an appeal body hearing from every group that did not feel its comments were properly considered.

Should the agency feel compelled to establish this dangerous precedent with a public notice and comment period that could potentially grow to all field of membership approvals, we would strongly recommend that the comment period be shortened from the proposed thirty (30) calendar days to 10 business days or 14 calendar days at the most. Thirty days to comment is simply too long and allows too much time for opposition to develop and begin building a case that, following the comment period, could turn into litigation upon approval if their opposition was not accommodated.

Five Year Limitation on Exemption for Previously Approved Communities

We are pleased that the proposal continues to provide for an exemption for previously approved communities; however, we strongly oppose the use of the exemption to *only* those communities approved within the last *five* years.

There has been absolutely no demonstrable evidence produced to date to indicate that the previously approved community limitation has resulted in any unwarranted community approvals or that communities have become less "well defined and local" over any five year period. In fact, it is highly unlikely, in our view, that in a five year period that the characteristics and demographics of a community will change in such a dramatic way as to deem it no longer a community.

The five year limitation on a previously approved community is too restrictive and is inconsistent with language found throughout the manual indicating that for documentation purposes applicants must rely on statistics from the most recent decennial US Census. To remove the exemption after five years is not reasonable. To do so, will require any credit union seeking approval to serve a previously approved community to submit essentially the same documentation and evidence used to previously classify the area as a community. Given that the manual requires the use of statistics and numbers derived from the most recent decennial census, this will be a repetitious, costly, burdensome and unnecessary exercise that in almost all cases will result in the exact same community as previously approved.

If the agency feels that it is necessary to establish a time limit on a previously approved community, five years is unreasonable and too restrictive. A more reasonable approach would be ten years given that the United States conducts a Census every ten years.

Community Charter Mergers

We are pleased the Board has sought public comment on whether there are any concerns or problems associated with the current procedures governing voluntary mergers where community chartered credit unions are involved. This is a timely and critical issue for the agency to consider. We firmly believe that voluntary mergers where community chartered credit unions are involved should be made less restrictive than is currently the case.

Having expressed an interest in merging with a few local community credit unions, we have witnessed firsthand the distinct disadvantage community chartered credit unions are at when seeking and evaluating potential merger partners. As the Board is aware, current rules do not permit a voluntary merger between a community chartered credit union and a multiple common bond credit union when the multiple common bond credit union will be the continuing credit union or even among community charter credit unions when the two communities being served are not the same. This prohibition unnecessarily restricts the ability

of a community credit union from seeking out the best potential merger partner in many cases which could ultimately lead to future safety and soundness concerns in our view.

When a credit union finds itself in an emergency status, NCUA will waive field of membership restrictions in order to facilitate a merger with the best possible merger partner. We believe a similar standard should be applied when the merger arises from two credit unions that do not wish to ever find themselves in emergency status. The best way to avoid declining financial performance is often a strategic voluntary merger. As a safety and soundness regulator, we believe NCUA should help facilitate these voluntary mergers when the two credit unions agree that a merger is in their members' best interests.

Simply stated, we are of the firm opinion that community chartered credit unions should be permitted to voluntarily merge into any credit union regardless of its charter type. Voluntary mergers among credit unions should not be evaluated based upon field of membership, but rather on the best interests of the member and established principles of safety and soundness. We commend NCUA for seeking comment on this and encourage the agency to take all affirmative steps to fully address this important and timely matter.

Chapter 3 – Service to Underserved Communities

As a multiple common bond credit union with an underserved area in our field of membership we are strongly opposed to the proposed change that would apply community interaction standards to the adoption of underserved areas.

There does not seem to be any justification as to why the agency would ever require underserved areas to be documented in the same way communities are currently documented. Either an area is underserved or it is not. In other words, either an area needs access to lower cost financial services from a credit union willing to provide such services or it doesn't. "Underserved" infers that the area needs more service. This is an objective determination, not a subjective one. The underserved criteria are clearly defined in the Chapter 3 of the current field of membership manual. NCUA does not make a determination of whether certain census tract(s) are underserved or not. That is determined by the CDFI, census data or other applicable criteria as outlined in Chapter 3. To force an area to both be validated as underserved and also to meet community documentation standards takes the focus away from "service to the underserved" and more to documenting the interaction of a community – never the intent of extending credit union service into underserved areas. An underserved area adoption is not, and never was intended to be, a community charter within itself.

We are concerned that as currently drafted the proposal will result in even less underserved areas being than are currently being adopted by federal credit

unions. It has already become increasingly more difficult for federal credit unions to adopt underserved areas with recent regulatory actions being taken by NCUA that removed the ability of community and single occupational credit unions to adopt underserved areas. To now impose a regulatory requirement for a credit union to demonstrate community interaction standards for a proposed underserved area in addition to independently established underserved criteria will effectively render NCUA's well acclaimed Access Across America initiative a relic going forward. Adoption of an underserved area presents enough challenges without adding unnecessary, costly and irrelevant components to the process.

Unfortunately the result of fewer underserved areas being adopted is that fewer underserved Americans will have access to additional consumer choice of lower cost financial products and services. Therefore, we strongly urge the Board to reconsider the proposed change which would apply community interaction standards to underserved area applications.

Thank you in advance for your consideration of our thoughts and comments on the proposed changes to the Chartering and Field of Membership Manual. I would be happy to discuss any of our positions and concerns at your convenience.

Again, thank you for the opportunity to extend our formal comments on this proposal for the official record.

Sincerely,

Michael G. Brown
President and CEO
JSC Federal Credit Union

cc: Chairman Johnson
Vice-Chairman Hood
Board Member Hyland