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Kirk Kordeleski
President and
Chief Executive Officer

June 25, 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 Board and management of Bethpage Federal Credit Union, we are pleased to offer the following comments for the record on proposed changes to 12 CFR Part 701 - Chartering and Field of Membership for Federal Credit Unions.

Community Charter Applications and Documentation Requirements

If a geographic area does not meet the definition as a well-defined local community or rural district, the proposed rule change specifies in the form of regulation the types of documentation that may be submitted by any credit union applying for a community charter. These specific changes primarily deal with the type of documentation necessary to show sufficient community interaction and shared commonality within the proposed community.

It appears that the provisions of this proposal closely mirror the documentation requirements presently in place. Even though it could be argued that including these requirements in the regulation removes much of the flexibility the present procedural requirements have to recognize the differences in individual communities, the reality is that this documentation has long been required for credit unions seeking a community charter. Provided that some flexibility is applied in practice to recognize the uniqueness of each community, this guidance could be beneficial to applicant credit unions.

It should be noted that much of the documentation proposed as necessary to meet the specified criteria is not readily accessible to most credit unions without it being purchased. Thus, most credit unions will be forced to purchase this market research. This is costly and perhaps unnecessary if the community interaction can be sufficiently documented from other sources; however, there is some benefit to spelling out for credit

unions what the agency will require and enabling the credit unions considering a community charter application to budget accordingly.

Presumptive Local Community Definition

It is certainly a positive that the agency has elected to retain the long standing presumption that single political jurisdictions are, by definition, well-defined local communities. It would be even more beneficial if the agency would also specify that this presumption would extend to a smaller area within a single political jurisdiction such as a city or series of cities within a county, a borough or series of boroughs within a city or a neighborhood or series of neighborhoods within a borough. It seems logical that a smaller unit within a larger presumed community should also carry that presumption.

As it relates to presumed communities within statistical areas, there are some changes which are positive and others which give concern. The current proposal would establish a standard definition of well-defined local community as presumed when it is a recognized Core Based Statistical Area (CBSA) or part thereof, and it contains a dominant city, county or equivalent with a majority of all jobs in the CBSA and containing at least 1/3 of the total population of the CBSA.

If this presumption is implemented with an eye toward flexibility, this could be solid guidance to assist credit unions considering the possibility of a community charter. In particular, the inclusion of the provision for a "part thereof" to be included in the presumption would enable a credit union to take a portion of a CBSA for its community without being required to take the entire CBSA. Such a section including the "part thereof" provision is crucial for credit union strategic decision making as it relates to how much or how little of a CBSA it would be safe and sound for the credit union to serve as a community charter.

Some credit unions will be in a strong financial position to serve the entirety of a CBSA, while others would be better financially to limit their service to a portion of the CBSA. Without the "part thereof" language and its authorization in practice, credit unions might choose to apply to serve the entire CBSA in order to receive the presumption. If a credit union's strategic plans would best be served with a community charter less than an entire CBSA, this should be allowed under the same presumption.

Notice and Public Comment Period Requirement

As it relates to the need for a public notice and comment period, we see no compelling reason to establish such a precedent for community charter decisions. In fact, we see many more problems arising from an unnecessary public notice and comment period than any potential benefits.

While public notice and comment periods admittedly are appropriate and required by the Administrative Procedures Act for the rulemaking process, we not only see no statutory requirement for it but we also see no practical reason to require public notice

and comment on what is essentially an agency decision on whether a credit union has sufficiently complied with the requirements to become a community credit union.

This requirement will establish an irrevocable precedent that both opponents and supporters of a credit union's application have standing in a regulatory compliance matter. Not only can opponents and competitors ferret through a credit union's community charter application for business strategies that should be protected from such scrutiny, but supporters can be rallied to provide countless testimonials for the credit union that – while strengthening the record –contribute nothing to the question at hand.

The question at hand in a community charter is simple: does the applicant credit union meet the community documentation standards, are they financially able to serve the community they are applying to serve and is their business and marketing plans sufficient to serve the entirety of the community? Those are not questions for the public or the competition to answer. Those are questions for the credit union to answer. And the credit union's answers to those questions are not for the public or the competition to judge. The answers are for the regulator to judge. The statute clearly gives the regulator that judgment authority.

If adopted as currently proposed, it is probable that every application issued for public comment will draw the attention of competitors, activists, disgruntled former employees, and unhappy members but also supporters, friends, employees and vendors. The comments may be interesting, but they are irrelevant. In actuality, all a public notice and comment period is likely to due is elongate the decision making process and provide a venue whereby potential litigants can help build their case against a credit union that is simply seeking to diversify its field of membership within the existing rules their regulator has established.

For the reasons listed above, we strongly urge the agency to reconsider the inclusion of a Public Notice and Comment Period in this proposed regulation.

Five Year Presumption Limit for Previously Approved Communities

Although the proposal continues to recognize the paperwork reduction action by the agency to presume a previously approved community remains an approvable community without requiring the credit union to document the entire community again, the proposal's limitation of that presumption to five years is arbitrary and unsupported on any factual basis.

We are aware of no governmental agency or empirical study that can point to any community that lost its interactive nature over a five year period. In fact, the United States Census only conducts a census on a ten year basis to validate MSAs and CBSAs. Because the agency largely relies on census data to validate community presumptions as is reflected in the section of this proposal granting a presumption to

CBSAs meeting certain criteria, it is hard to imagine a reason why that presumption could be lost in just five years.

To remove the presumption for a previously validated community after five years is simply not reasonable. Forcing a credit union to document for the second or third time a community that the agency has already deemed to meet the standards is repetitious, costly, burdensome and unnecessary. This would be an example of paperwork enhancement, not paperwork reduction. Neither the agency nor the credit union would benefit from repeating the community validation exercise over and over after each five year period. As a result, we respectfully request the agency to eliminate the five year presumption limitation from the proposal.

Business Plan Specifications

We are in support of the agency's proposal to incorporate specific guidance in the manual as to the types of financial products, programs and services that the agency would like to see included in a credit union's business and marketing plan to serve a community. Although supportive of this section, we continue to state our belief that, without flexibility in application of this guidance to accommodate credit union differences, this guidance could become a "one size fits all" mandate. It does not appear to be the agency's intention to do so, and we are therefore supportive of the language of this section as appropriate guidance that can be flexible enough to take into consideration the extensive differences in individual credit unions.

Mergers of Community Chartered Credit Unions

It is greatly appreciated that the agency has requested public comment on concerns and associated with the current practices of the agency as they relate to voluntary mergers where community chartered credit unions are involved.

A crucial issue for many credit unions, voluntary mergers presently put many community chartered credit unions at a disadvantage. Since the present regulations do not permit a voluntary merger between a community chartered credit union and another community chartered credit union unless they share the exact same community or the merged credit union's community is totally encompassed within the continuing credit union's community, this prevents many otherwise viable voluntary mergers or forces the merging credit union to another less appropriate merger partner.

In addition, community credit unions cannot merge with a single sponsor or multiple common bond credit union if the single sponsor or multiple common bond credit union will be the continuing credit union. In fact, even multiple common bond credit unions cannot merge with a community charter without losing SEG relationships outside of the continuing credit union's community.

All of these restrictions unnecessarily restrict the options of credit unions who feel that they need to merge for member service or financial reasons. We feel that the ability of two credit unions to voluntarily merge should be a member service and financial

decision, not a field of membership driven decision. If the best two credit union partne cannot voluntarily merge to avoid the potential of a future downward turn in either financial performance or member service, then the credit union community as a whole the loser – but not the only one. Members lose when their credit union is forced to merge with another credit union that does not best meet their needs. The share insurance fund loses if the merger becomes a losing proposition, rather than a winning one, simply because it was driven by a "compatible" field of membership rather than a strategic match of credit union cultures and needs

We firmly believe that community chartered credit unions should be permitted to voluntarily merge with other credit unions in their market area, regardless of their charter type. The market area and ability to serve the combined membership safely, soundly and effectively should be the determining factor in a voluntary merger, not the field of membership. This is the criteria the agency utilizes when it facilitates an emergency merger. This should likewise be the criteria the agency utilizes to facilitate voluntary mergers among the best candidates to avoid future emergencies.

Underserved Community Documentation

Lastly, we are quite concerned about the proposed rule change that would apply community interaction standards to the adoption of underserved areas.

We fail to see any justification for the agency to require underserved areas to be documented in the same way community charters are currently documented. Underserved areas are not communities. Credit unions expanding service to an underserved area are not community charters. In fact, community chartered credit unions cannot even expand into an underserved area under present agency rules.

Our reading of the present regulation is that an area is either underserved or it is not. The standard is not interaction; it is need for service. So, the way we see it, if an area has been categorized as underserved, then it would benefit from the lower cost financia services a credit union can offer. Making a credit union document both the underserved nature of an area as well as the burdensome interaction standards that would be required of a community charter will simply drive many credit unions away from expanding their services into underserved areas. This is not a positive result.

The result of less expansion of credit unions into underserved areas will be fewer consumer choices for those residents. How tragic it would be for the payday lenders and check cashing outlets to have unlimited expansion opportunities in these communities but lower cost credit unions being stymied in their efforts to offer an alternative because no data exists proving that the underserved residents sufficiently interact to be considered a community. There is a difference between a community chartered credit union and a credit union extending its service into an underserved area That distinction should remain by protecting the status of underserved areas as eligible for credit union service without requiring the credit union to meet unnecessary and burdensome standards to provide that service. We strongly urge the agency to remove

ne provision of this proposal that would apply community interaction standards to nderserved area applications.

closing, please allow us to thank you in advance for your consideration of our oughts and comments on the proposed changes to the Chartering and Field of lembership Manual. Please do not hesitate to contact me if you need additional formation on any of the issues addressed in this comment letter.

incerely,

irk Kordeleski
resident and Chief Executive Officer

c: Chairman Johnson
Vice-Chairman Hood
Board Member Hyland