



August 6, 2007

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

Re: Proposed Rule IRPS 07-1 (Chartering and Field of Membership for FCUs)

Dear Ms. Rupp:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on proposed amendments to NCUA's Chartering and Field of Membership Manual, which seek to modify the definition of what constitutes a well-defined local community, as well as revise documentation requirements for other types of local community charters. The California and Nevada Credit Union Leagues are the largest state trade associations for credit unions in the United States, representing the interests of more than 400 credit unions and their 9 million members.

We would like to commend NCUA on its efforts to standardize some of the more grey areas currently found in its community charter application process. We understand that such standardization has the potential to make it easier for an applicant—as well as NCUA—to determine and demonstrate whether a proposed area is a well-defined local community, which in turn may result in less difficulty and more efficiency for both the applicants and the agency. We also understand how such standardization may appear to be an attractive way to insulate the agency from third-party criticisms regarding perceived inconsistencies in approving community charters. However, we believe that these potential benefits are severely weakened by several flawed premises found within the proposal.

Statistical Data Standard

First, we question the approach of basing the standard for “pre-approved” multi-jurisdictions entirely on Core Based Statistical Area (CBSA) data from Office of Management and Budget (OMB). We are convinced that by using this data for purposes that are not entirely statistical in nature, many communities in the U.S. that display interaction or common interests—but happen to fall outside the proposal's inflexible definition of a Statistical Area—will be deprived from receiving expedited approval and, therefore, will be less appealing to credit unions seeking a community charter.

Ultimately, we think this will result in limiting access to credit union services. In addition, when the CBSA standard is combined with the proposal's additional—and plainly arbitrary—requirements regarding jobs and population within a CBSA (i.e., that an area requested must contain a dominant city, county, or equivalent with a majority of all jobs in the CBSA, and that it must contain at least 1/3 of the CBSA's total population), we feel that matters are made worse.

For example, the Coachella Valley area in Riverside County, California, contains nine cities and various unincorporated areas within it, the populations of which range from 5,000 to 90,000. The area demonstrates many characteristics of a well-defined community, including traffic and commuting flows, shared water and school districts, economic development partnerships, and newspapers. However, while the area is within the Riverside-San Bernardino-Ontario Core Based Statistical Area (CBSA), it fails to meet the standards for a Statistical Area under the proposal, as no one city in the Valley is a dominant city with a majority of all the jobs and at least 1/3 of the CBSA's total population. Under the proposal, a credit union seeking a community charter for this obviously well-defined area would be required to go through the public comment process as required by the proposal (which we will address later in this letter).

Coachella Valley is just one example in our area of the type of "community blind spot" created by using purely statistical data in this fashion. (Others are the Inland Empire in Southern California and Wine Country in Northern California.) I'm sure that many residents throughout the country could easily name other communities that don't meet the purely statistical definitions of "well-defined community" as anticipated under the proposal which, nonetheless, are clearly just that. We believe that NCUA's approach, which at first blush appears to be easier and more efficient, creates as many problems as it purports to solve. No doubt this is the primary reason the OMB cautions against using CBSA data to develop and implement Federal, state, and local nonstatistical programs and policies without full consideration of the effects of using these definitions for these purposes (see OMB Bulletin No. 04-03, released February 2004).

At a minimum, we recommend that NCUA consider more realistic jobs and population thresholds for the Statistical Area definition. Ideally, we believe the jobs and population requirement should be eliminated.

Publication in Federal Register

The proposal's requirement that applications for areas containing multiple political jurisdictions that do not meet the proposed statistical definition be subject to public notice and comment strikes us as unnecessary, time consuming, and expensive. As there is no legal or regulatory requirement provided as a rationale for this requirement (indeed, the proposal specifically states that there is no legal requirement to do so) we strongly urge NCUA to eliminate it, regardless of the form the final rule takes.

Five Year Limitation

Under the current Chartering and Field of Membership rules, a community charter applicant is exempt from submitting a narrative summary or documentation for a geographic area that NCUA has previously approved. We believe that this requirement is a great example of the type of non-burdensome, common sense regulation that NCUA has historically been committed to. However, under the proposal, a community charter applicant's use of this exemption would be limited to five years. As with some other provisions of the proposal, there is no basis provided to support this limit.

We would argue that economic growth and population change is unlikely to have such a dramatic effect over a five-year period that a community would become less a community over that period. Indeed, the fact that a census is taken every ten years in the U.S. would seem to contradict the efficacy of a five-year limit. Ultimately, however, we think that any “hard-coded” limitation thwarts competition and provides long-term, unfair advantages to some credit unions.

Rural Districts

Finally, we are concerned that the proposal’s definition of “rural district” excludes Micro Statistical Areas, which appears to conflict with other federal agency’s interpretations (e.g., the USDA). In addition, the requirement that the proposed rural district contain no more than 100 people per square mile and a population of no more than 100,000 appears to be arbitrary. While it possible that a rural area could be added by applying the Statistical Area standard, most rural districts won’t be able to meet the jobs and population requirements of that standard. We believe that the implementation of this standard could be excessively burdensome on small credit unions, and recommend the inclusion of Micro Statistical Areas in the definition of a rural district, and the elimination of 100/100,000 standard.

Conclusion

While we think the proposed changes are well-intended, we feel that, on balance, they will serve to create unintended roadblocks for many credit unions seeking community charters. In California and Nevada, as in many other states, state-chartered credit unions are generally not limited in their community charter efforts in the fashion that NCUA’s proposal anticipates (e.g., number of jobs, majority of population, population density, public comment period, etc.) We fear that the arbitrary, unsubstantiated elements of this proposal—including the overlooking of publicly perceived “areas of community”—could serve to weaken the appeal of the federal charter, and may be excessively burdensome on small credit unions, which remain the foundation and essence of the industry.

I thank the NCUA for the opportunity to comment on this proposal, and appreciate the agency’s consideration of our views.

Sincerely,



Bill Cheney

President/CEO

California and Nevada Credit Union Leagues