AMERICA FIRST
FEDERAL CREDIT UNION

138

July 18, 2007

AUG07'07 AM 6:50 BOAR

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:

Thank you very much for the opportunity to comment on the above referenced proposal. We appreciate the ongoing efforts of the National Credit Union Administration to modernize its field of membership rules and to request comment from those of us who are impacted by them. On behalf of America First Federal Credit Union, please accept the enclosed comments for the record as it relates to this proposed rule.

There is much in this proposal that we support, such as the establishment of a rural district designation, clarifying the components of a business plan which must accompany a community charter application and the need for a more flexible approach to voluntary mergers when they involve community chartered credit unions.

Likewise, there are some aspects of this proposal that we have serious concerns about, such as the elimination of the pre-approved community presumption after five years, the requirement to document an underserved area as a community and the provision to open certain community charter applications to a public notice and comment period.

The paragraphs below include additional information as to our position on each of these provisions.

We commend the National Credit Union Administration for taking the step in this proposal to establish a rural district definition. This has been allowed by statute for a number of years based upon the fact that rural communities lack the population and central urban areas that bigger MSA or CBSA communities have. That makes it challenging to document sufficient interaction to become a well-defined local community when the residents are widespread over a geographically large area. It will be more fair to credit unions seeking to serve largely rural areas to have a different criteria applied to their applications. An increase of the rural area maximum population would provide more flexibility if it were increased from the present 100,000 maximum. We would suggest 300,000 as a more flexible maximum.

Likewise, for those credit unions applying for a community charter, there is much benefit in knowing the National Credit Union Administration's expectations regarding the sufficiency of the credit union business plan. Although there will need to be flexibility in expectations because the resources of each credit union is different, the ability to know without guessing what the National Credit Union Administration will expect is beneficial. We encourage this provision to remain in

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the proposal, but to be administered with recognition of the differences in resources from credit union to credit union.

Regarding voluntary merger guidelines for community credit unions, there are many hurdles and stumbling blocks for community credit unions when it comes to voluntary mergers. It is, frankly, easier for multiple group credit unions to engage in voluntary merger discussions with each other than it is for community credit unions to do so.

It is important that community credit unions be allowed to voluntarily merge with a credit union with any other type of field of membership if the merger will result in a stronger and more effective credit union. Ability to serve the entire membership of the merged credit union should be the primary consideration.

Based upon the precedent that the National Credit Union Administration will allow an emergency merger between credit unions with different fields of membership, we would encourage the agency to take the same position regarding voluntary mergers – many of which are designed to avoid slow descent into the need for an emergency merger. To protect safety and soundness, there should be action taken to allow voluntary mergers when two credit unions, regardless of field of membership, have come to terms on a merger agreement that results in a stronger credit union that can serve the members of the combined credit union.

We feel the requirement for public notice in the *Federal Register* if the credit union application does not meet the agency's preferred criteria for a "well-defined local community" could be extremely harmful to those credit unions required to provide such notice.

It would seem that almost all public comment would come from anti-credit union organizations such as banks and bank trade associations. Commentary from such groups is sure to be far from objective. To expose the strategies, internal operations, business and marketing plans of a credit union to such scrutiny would be counter productive and possibly very damaging.

The state of Missouri just passed a credit union field-of-membership bill and one of the requirements tossed out of the new bill was a banker-backed requirement for credit unions to have to publish expansion plans in the *Missouri Register*. The credit unions of Missouri scored a win here. An important lesson can be learned from this experience as to who would benefit from such public notice.

We certainly support public notice and comment periods on rules and regulations, but we do not see any benefit to opening a credit union's community charter application to analysis by anyone other than the NCUA. We encourage NCUA to withdraw this part of the proposal.

We also have concerns about the section cutting back the presumed community definition to five years. Most communities do not change sufficiently in five years to justify a review of whether it meets the standards. It is felt the credit union would make much better use of time documenting how it will serve the community rather than having to justify the community still exists.

Another difficulty with the five-year review of the presumed community is that if it had changed then the bankers could certainly argue that the credit unions with the existing FOM should be prohibited from adding additional members because it is no longer "legal." We believe the NCUA should remove the five-year limitation on a presumed community.

We strongly oppose the provision that requires underserved areas to meet the community interaction standard. Underserved areas have already been defined by another agency, and therefore already meet the standard of being objective and statistical in nature.

Further justification that these areas already meet a community standard is the fact that banks use these same underserved definitions in their tax planning/avoidance strategies. A quote from the 2004 Zions Bancorporation Annual report illustrates this point:

> *"We were also recognized by the U.S. Department of the Treasury for our leadership in meeting the needs of businesses in underserved neighborhoods through the award of $100 million in the New Markets Tax Credits program—one of the largest grants of its kind—which will result in a reduction in our income tax expense of up to $39 million over the life of the award."*
> *Harris H. Simmons Chairman, President and Chief Executive Officer*
> *February 12, 2005*
> *ZIONS BANCORPORATION Annual Report 2004*

We feel credit unions should be encouraged to add underserved areas to their field of membership and provide needed services in these communities. Adding a requirement to further justify their community status would only discourage credit unions from attempting to serve these areas. If a credit union has the financial and operational ability to serve these areas, they should be allowed to do so.

On behalf of America First Federal Credit Union, we appreciate this opportunity to state our views for the official record on this proposal. If you need additional information, please do not hesitate to contact us.

Sincerely,

Rick Craig

Rick Craig
President and CEO

cc: Chairman Johnson
Vice-Chairman Hood
Board Member Hyland