

Louisiana
Credit Union League

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August 7, 2008

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

Re: Proposed Amendments to Chartering and Field of Membership Manual (IRPS 08-2)

Dear Ms. Rupp:

On behalf of the Louisiana Credit Union League, I would like to provide these official comments for the record on NCUA's proposed changes to its Chartering and Field of Membership Manual (IRPS 08-2) as it relates to the process for approving underserved areas.

The Louisiana Credit Union League feels strongly that this proposal, which we are convinced will make the process for serving underserved areas unnecessarily restrictive, is destined to have a distressing effect on the ability of credit unions to extend their services to more residents of underserved areas.

There has been considerable progress since this regulation was first put into place following the enactment of statutory authority of credit unions to serve underserved areas in 1994. In fact, millions of Americans who reside in CDFI underserved areas have gained more consumer choice from NCUA's progressive efforts to encourage credit unions to reach out and serve these neighborhoods and communities. If adopted as presently proposed, we fear that this proposal could reverse this positive trend and result in fewer new choices of a lower cost nature for residents of these areas.

The Louisiana Credit Union League supports additional efforts to promote the extension of credit union services into underserved areas, not efforts to make that process more difficult. This proposal would, in our opinion, make the process for providing lower cost financial services to the residents of underserved areas far more complex and restrictive than is necessary.

We consider the provisions listed below to be the most problematic and have the need to be improved or eliminated before our concerns about this proposed rule could be eliminated.

Local Community Standards

The Louisiana Credit Union League is perplexed as to the reason why the proposed rule seems to mandate the same level of extensive documentation for underserved area service as is mandated for credit unions to convert to a community chartered credit union.



We see no supportable justification for NCUA to require neighborhoods, communities, cities and parishes that have met the CDFI standard to be investment areas (or underserved areas) to additionally meet the same level of community interaction standards as a community chartered credit union. These areas result from census tracts that have met the underserved criteria. The purpose should be to extend to those residents additional consumer choice, not to make a credit union prove that the area meets an interaction standard before that additional consumer choice can be provided.

This process of validating an area's underserved status should not be complex. Regardless of their interaction, either the residents of an area meet the criteria for residing in an underserved area or they do not. It is totally irrelevant to their underserved status that the residents go to the same mall or watch the same television stations. Underserved is underserved. Any interaction, although we contend such a requirement to be irrelevant, would only serve to enhance the feeling of frustration felt by the residents of an underserved area. Interaction, which is largely subjective, does not define an underserved area. Objective criteria defines an area as underserved. That objective criteria should be maintained as the qualifying criteria, not an interpretation of the sufficiency of the number of residents who attend community events or sporting venues.

There is neither a requirement in the statutes, nor in NCUA regulations to date that would establish a credit union serving an underserved area as having the legal status of a community chartered credit union. Lacking such a statutory requirement or historical regulatory history, we would recommend the agency remove this requirement from the proposal so that the process will be less burdensome for those credit unions willing to extend their lower cost financial services to more underserved residents.

Economic Requirements for Distress

It appears that among the purposes of the proposal is to require an underserved area to have documented "economic distress" before a credit union can be approved to extend services to the residents there. It is our belief that the proposal goes beyond mere clarification and adds another unnecessarily redundant requirement that will burden and perhaps deter credit unions from serving these residents. This is, in our opinion, unfortunate and inconsistent with NCUA's longstanding position that credit unions should be doing more to serve persons of modest means – even to the point of recently initiating an agency data collection project to validate this service.

We offer the following as an example of a way in which the proposal will make the existing process more confusing and more restrictive. As we read it, the proposal will basically do away with the ability of a credit union to extend its services to an entire underserved city if that city unless it can be classified in its entirety by census tracts. We in Louisiana have numbers of entire cities and parishes that qualify as underserved under the current rules (even more so following Hurricane Katrina). It is unclear as to whether these areas would continue to qualify under the proposed rule because they are currently classified as underserved based on criterion such as poverty rates and the median family income of the

areas in their entirety and not by individual census tract. If our interpretation is correct, this is a “technical correction” that, if implemented in the final rule as specified in this proposal, will result in fewer options for those residents who need them the most.

NCUA truly needs to find more ways, not fewer ways, for credit unions to serve these cities or parishes that qualify as underserved in their entirety. We feel that an entire city or parish, if it meets the criteria used to qualify individual census tracts as underserved, should likewise be considered underserved in its entirety. There is no doubt but that it is considerably more beneficial strategically for a credit union to establish a business model and marketing plan to serve underserved areas with clearly recognizable and understandable political boundaries such as those of an entire city or parish.

The Louisiana Credit Union League agrees with NCUA in its proposal when it seeks to “grandfather” credit unions that are already serving underserved areas, have made investments in branches and personnel, and have made this service an integral part of their business model. However, we feel the proposal is missing an integral degree of fairness when it does not likewise “grandfather” underserved areas that have already been approved for one credit union and make those same areas available to other credit unions without requiring them to repeat the validation process.

We believe that the residents of any area that has already been qualified as underserved should, as long as the current decennial census data is applicable, be able to access additional service options from other credit unions that might wish to serve residents of the same underserved area. Any approval of another credit union’s application to serve the residents of a previously approved underserved area should be based upon its business plans and safety and soundness, rather than on their ability to jump through the same underserved documentation requirements that have already been validated previously by NCUA.

Meeting Unmet Needs through Other Banks/Credit Unions

It is our opinion that any requirement is superfluous if it requires a credit union wishing to serve the residents of an underserved area to go through the costly process of hiring a consultant to study whether there are enough banks and credit unions already doing business in the area to warrant another consumer choice for the residents there. More choice is always a good thing for consumers. Why should consumers in underserved areas ever have a governmental agency tell them that they do not need additional choices? We cannot see any reason why this factor should even be considered in determining if an underserved area has unmet needs. If the needs were being sufficiently met, then why does the area still qualify as underserved?

The proposal is convoluted in this instance as it proposes a nebulous but complicated formula that is intended to certify – in every single instance regardless of the individual circumstances of the neighborhoods involved – that the residents of an area are being sufficiently served by its present mix of banks, thrifts, credit unions and other types of financial service providers. It would seem that such additional documentation, after the CDFI criteria has already been met, is documentation for documentation sake. Once the

criteria of CDFI have been met, additional documentation solely serves to demonstrate the reasons CDFI determined the census tracts to be qualified. To require the credit union to validate the steps that CDFI has already used is somewhat like requiring an applicant with a Ph.D. to also prove the he or she graduated from undergraduate school, high school and elementary school. The Ph.D. within itself is proof that the former hurdles have been cleared. So should be the CDFI designation. Additional requirements are, frankly, bureaucratic overkill with no value or purpose.

Presumption of Unmet Needs

Our experience with NCUA has shown a progressive attitude at the agency as it related to the need for more credit union service in underserved areas and the value of that service availability to the residents of underserved areas whether they chose to take advantage of the services or not. We commend the agency for this longstanding position and have strongly supported NCUA's "Access Across America" initiatives. Without question, NCUA has been extremely successful in encouraging credit unions to serve more residents of underserved areas through its presumption that underserved areas, by nature of being qualified as underserved, have unmet needs that would benefit from more consumer choice.

We fear that this proposal is a significant reversal of that longstanding approach. This proposal, if approved, would go beyond that presumption by requiring reams and reams of additional documentation demonstrating that there is also "economic distress" and "significant unmet needs." In addition to the aforementioned complexity of the formula for NCUA to judge the very subjective question of whether there are already enough financial institutions in the neighborhood, the agency has also proposed an even more subjective standard. In what seems to be a requirement for documentation on steroids, a credit union will also be required to prove that the CDFI was right about the people living in an area truly being underserved and to do so without the resources of the Treasury Department and the Census Bureau. This is simply unnecessary and will have a chilling effect on credit union extension of service to the residents of underserved areas.

Pending Applications

The Louisiana Credit Union League is opposed to the provision in this proposal that would put a moratorium on approval of underserved area applications until a final rule is adopted. This seems to pre-suppose a final outcome and is not in good faith with those credit unions seeking to serve underserved areas and having already applied to do so in accordance with the rules that have been in place since 1994. As we stated in our previous letter on this aspect of the proposal, the Louisiana Credit Union League feels strongly that no moratorium should be in place on those credit unions that are complying with the existing rules until new rules are formally adopted and the appropriate administrative procedures have been followed.

Should NCUA feel that this moratorium indeed is appropriate to leave in place during the long rulemaking process, we urge the agency to exempt from the moratorium any credit unions or underserved areas in the Gulf Opportunity Zone. The post-Katrina and Rita

needs for residents in Louisiana communities are much too significant to be delayed while new rules on what constitutes “underserved” are being debated. Whatever the definition of “underserved” if and when this final rule is approved, no reasonable mind can question the “underserved” nature of post-Katrina and Rita Louisiana. Please leave our Louisiana credit unions out of any moratorium and make them again eligible to extend crucial financial services to their neighbors under the existing rules until new rules are adopted. Likewise, if and when new rules are adopted, please ensure that the burdensome process does not do to Louisiana credit unions what the tragic hurricanes of 2005 could not – make serving their underserved neighbors a price too costly to pay.

Conclusion

With the Credit Union Regulatory Improvements Act (CURIA) and the Credit Union Regulatory Relief Act (CURRA) being considered by Congress and co-authored by our own United States Senator Mary Landrieu (D-LA), we must recognize that there is a possibility that the laws themselves on underserved areas could be revised in the near future. New regulations followed by new laws, followed again by even newer regulations to implement the new laws... the result could be confusion and a reduced number of credit unions willing to jump over the constantly moving hurdles necessary to serve more residents of underserved areas. That would be a terrible loss.

The Louisiana Credit Union League encourages NCUA to carefully analyze this proposal ~~and the possible ramifications to residents of underserved areas, as well as to the credit unions that have made such service a linchpin to their strategic goals.~~ It is our hope that this proposal can be delayed until possible legislative changes are finalized in Congress, any moratorium can be immediately lifted and a simpler process emerges as an alternative to the more burdensome process proposed in this rule.

Thank you for the opportunity to comment on this proposed rule. The Louisiana Credit Union League and the credit unions of Louisiana recognize the challenge NCUA faces as the agency responsible for the safety and soundness of America’s credit union system. We appreciate your difficult responsibility and value our opportunity to have our opinions considered as you make new regulations. Please feel free to contact us if we can be a source of additional information about our position on this proposal.

Sincerely,



Anne Cochran
President/CEO
Louisiana Credit Union League

CC: Chairman Fryzel
Vice Chairman Hood
Board Member Hyland