National Association of Federal Credit Unions
3138 10th Street North • Arlington, VA 22201-2149
(703) 522-4770 • (800) 336-4644 • Fax (703) 524-1082
NAFCU www.nafcu.org • nafcu@nafcu.org

June 25, 2008

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

RE: Comments on Proposed Rule Parts 701 and 705; The Low-Income Definition

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I am writing in response to the National Credit Union Administration's (NCUA) request for public comment on its proposed rule to use Median Family Income to determine if a federal credit union (FCU) qualifies for low-income designation and assistance from the Community Development Revolving Loan Fund (CDRLF), pursuant to 12 CFR Parts 701 and 705. Specifically, the proposal would revise the definition of "low-income members" to use Median Family Income (MFI) in lieu of Median Household Income (MHI) for greater consistency with other federal regulatory standards, and in order to eliminate the confusion of adjusting MHI for metropolitan areas with higher costs of living.

Firstly, NAFCU would like to commend Board Member Hyland and the Outreach Task Force for their diligent efforts to explore ways to improve the agency's outreach efforts to low-income and underserved communities. NAFCU and its member credit unions persist in the conviction that our community's original mission of "promoting thrift" and providing "a source of credit for provident or productive purposes" remains a valuable one. Particularly in these difficult economic times, credit union service to low- and moderate- income members continues to be as important today as it was when the Federal Credit Union Act was first enacted in 1934 during the Great Depression.

As such, NAFCU supports the proposed rule. In particular, we believe that a greater alignment of the criteria for the low-income designation with other federal standards, including those applicable to underserved areas, will improve credit union outreach to low-income individuals and communities. NAFCU is concerned, however, that there may be unintended adverse consequences that result from the proposed changes to the low-income definition. Accordingly, if finalized, we strongly encourage the agency to continue to study and closely monitor the effects of the rule change on low-income designated credit unions (LICUs). We elaborate on these comments in more detail below.

Use of Median Family Income in Lieu of Median Household Income

NCUA is proposing to revise the definition of "low-income members" in Parts 701 and 705 to base the determination on an income standard that relies on MFI or, alternatively, on median earnings. This is intended to eliminate the confusion associated with adjusting the national MHI for metropolitan areas with higher costs of living and to better align the qualification standards for the low-income designation, the addition of underserved areas to a FCU's field of membership, and Community Development Financial Institution (CDFI) certification requirements.

NAFCU generally favors regulatory consistency and believes that a greater alignment between the low-income definition and other federal qualification standards is beneficial to credit unions. Greater uniformity should help to streamline and clarify the qualification process for LICUs and for credit unions applying for underserved areas. NAFCU also supports the removal of the geographic differentials, which are outdated, confusing, and fail to adequately account for certain high-cost areas. Further, NAFCU is supportive of increased alignment with CDFI Fund criteria. Alleviating undue burdens on credit unions applying for assistance for the CDFI Fund should permit more credit unions to receive federal funding.

Five-Year Grandfather Provision for Current Low-Income Credit Unions

While, at this time, NCUA does not anticipate any significant impact on the number of credit unions qualifying for a low-income designation, the agency has acknowledged that it is unable to fully anticipate the ramifications of the proposed change from MHI to MFI. However, in order to mitigate any unintended negative impact on existing LICUs, the proposed rule includes a five-year grandfather provision to allow such existing LICUs to qualify under the new standard or transition time if they no longer qualify for the low-income designation.

NAFCU generally supports the establishment of a grandfather provision to allow LICUs adequate time to come into compliance with the new MFI standard. However, due to the uncertainties in fully predicting the consequences of the change from MHI to MFI, we disagree with the proposition that LICUs failing to meet the new standard at the end of the grandfathering period automatically lose the low-income designation with no right to appeal.

Instead, NAFCU believes that LICUs that do not qualify for the low-income designation by the end of the five-year period should be provided with a written removal notice and have the right to appeal the loss of their low-income designation to the NCUA Board. We suggest that this right of appeal parallel the process for credit unions losing their designation due to changes in FOM, merger, assumption, liquidation, or other occurrence (i.e., filed within 60 days of written notice by the regional director). Further, on appeal, the NCUA Board should consider granting LICUs with waivers, if appropriate on a case by case basis. Providing the right of appeal would more fully alleviate any potential adverse impact on current LICUs, which tend to be small institutions working with limited resources or may even be dependent on the designation for their continued survival.

NAFCU firmly believes that the impetus behind any change to the low-income definition should be to better enable *more*—not less—credit unions to serve low-income and underserved families and communities; accordingly, we believe it is imperative that the work of existing LICUs not be disrupted by the new rule.

NAFCU appreciates the opportunity to share its views on this proposed rulemaking. Should you have any questions or require additional information please call me at (703) 522-4770 or (800) 336-4644 ext. 218.

Sincerely,

Pamela Yu
Associate Director of Regulatory Affairs