California CREDIT UNION LEAGUE NEVADA CREDIT UNION LEAGUE

June 25, 2008

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

Re: Comments on Proposed Rule Parts 701 and 705, Low-Income Definition

Dear Ms. Rupp:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the NCUA's Proposed Rule regarding the low-income designation, which would change the standard used for designating low-income credit unions from median household income (MHI) to median family income (MFI). By way of background, the California and Nevada Credit Union Leagues (the 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.

The Leagues are pleased to support the proposed change to the low-income definition. This change will not only establish one income standard for determining a low income designation, underserved areas, and investment areas, but will also eliminate the confusion associated with adjusting MHI in metropolitan areas with higher costs of living. We also appreciate that the NCUA recognizes that not all credit union members meet the Census Bureau's definition of "family" under the MFI standard, and have proposed to permit credit unions to use the median earnings for individuals reported by the Census Bureau as an alternate income standard for MFI.

While not entirely clear from the language of the proposal, it appears that all low-income credit unions (LICUs) must "re-qualify" for the designation using the MFI standard—that is, they must submit to the regional director all appropriate supporting income or earnings documentation for the community served. If this is indeed the case, the Leagues find such a requirement to be unnecessarily burdensome and contrary to the NCUA's past approach on other legal and regulatory issues. For example, credit unions that had a history of primarily making member business loans were grandfathered out of the aggregate member business loan limit under 12 CFR 723.17(c). Under IRPS 06-1, the NCUA grandfathered non multiple common-bond credit unions that added underserved areas in reliance on NCUA's policy. In neither case did the grandfathering provision expire, as with this proposal.

We believe that LICUs that relied on the NCUA's long-standing MHI standard should not be adversely and unfairly affected by having to re-qualify under the MFI standard. As the NCUA notes in the proposal, approximately 692 LICUs are small entities. More than any other group, many of these credit unions have been significantly impacted by the current economic downturn, experiencing diminishing ROA, lower income, and slow membership growth. In this environment, it is the Leagues' position that additional regulatory burdens are unjustified. Indeed, the proposal provides little information or justification as to why all LICUs must re-qualify. Therefore, we respectfully recommend that the NCUA grandfather all current LICUs—without an expiration to the grandfathering—and apply the MFI standard going forward for new LICU applicants only.

If the agency is unwilling to grant such a provision, we are doubtful that a five-year grandfather period grants sufficient time for a LICU to repay secondary capital, a Community Development Revolving Loan Fund loan, nonmember deposits, or reduce its member business loans. As typical secondary capital investments have a maturity of seven to ten years,[1] we suggest that it would be more reasonable to set the grandfather period within this range. In addition, if current LICUs must re-qualify, we feel that the NCUA should clarify in the final rule whether the agency will assist in obtaining necessary demographic data in the event that income or wage information is unavailable to the re-qualifying applicant (e.g., as mentioned in Chapter 3, Section II of the *Chartering and Field of Membership Manual*).

In closing, I would like to thank the NCUA for the opportunity to comment on this proposal. We hope you find our comments helpful in crafting a final rule.

Sincerely,

Bill Cheney
President/CEO
California and Nevada Credit Union Leagues

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[1] Antonia Bullard, *High-Impact Capital: Using Secondary Capital to Expand Community Development Credit Union Capacity*, http://www.frbsf.org/publications/community/investments/0409/highimpact.html