



Credit Union National Association

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | **PHONE:** 202-638-5777 | **FAX:** 202-638-7734

cuna.org

June 27, 2008

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

Re: Proposed Rule, Parts 701 and 705, Low-Income Credit Union Definition

Dear Ms. Rupp:

On behalf of the Credit Union National Association, I appreciate the opportunity to provide comments to the National Credit Union Administration Board on its proposal to amend the definition of low-income federal credit unions (FCUs), as recommended by the agency's Outreach Task Force. By way of background, CUNA is the nation's largest credit union association, representing the country's 8,300 state and federal credit unions that serve more than 90 million members.

Summary of CUNA's Position

- CUNA does not generally object to the change in the definition from one that is based on "median household income" to one that is based on "median family income."
- However, CUNA urges the agency to consider some important modifications which we believe will facilitate NCUA's objective of enhancing outreach to those who would benefit most from the availability of financial services through low-income designated credit unions.
- The 'grandfather' for existing low-income credit unions should be permanent, not just for five years as in the proposal. NCUA should also include a waiver process that would allow other credit unions on an



OFFICES: | WASHINGTON, D.C. | MADISON, WISCONSIN

individual basis to qualify for or retain low-income status to serve areas or individuals who might not technically meet the definition of low-income.

- The final rule should be clarified to include state-chartered federally insured credit unions;
- The definition should include those whose incomes are at or below 80% of the area or nation's income standards, even if they do not live in a low-income area.
- NCUA should facilitate the ability of credit unions to determine low-income areas by making appropriate resources available for them on its website.
- Also, as the agency is proposing to amend the criteria for the addition of underserved areas, we encourage NCUA to coordinate the development of this final rule with its consideration of the underserved proposal.

Discussion of CUNA's Views

The NCUA Board is proposing to modify its regulation 12 CFR 701.34, Designation of Low-Income Status for federal credit unions. The proposed changes follow recommendations included in the agency's Outreach Task Force Report that the current approach for designating a credit union as low-income should be reevaluated.

This is an important issue, as credit unions that are designated as "low-income" are exempt from the member business lending asset limitations, may receive shares from nonmembers, and may have secondary capital.

Under the proposal, the appropriate regional director will determine whether a credit union is eligible for a low-income designation based on whether the majority of the credit union's members are low-income. Low-income members are defined generally as those living in an area where median income is at or below 80% of the median area or national income standard. Such standard is based on median family income or individual earnings, as reported by the U.S. Census Bureau.

The regional director may revoke the designation if the FCU no longer meets the criteria. The proposal provides that the credit union may appeal the decision to the region within 60 days of receiving notice that the designation will be revoked. The proposal includes provisions that would allow a credit union to continue as a low-income institution for five years after it loses the designation.

The agency's stated purpose is to improve the regulation and the process for determining low-income credit unions, goals which CUNA commends. While we generally do not oppose the definitional change, we urge the Board to implement

several significant changes that we believe are consistent with its goals and will facilitate the ability of credit unions to be designated and operate as low-income.

First, we believe the grandfather provisions should be amended to permit credit unions that are currently designated as low-income to retain their designation on permanent basis. While we do not think a significant number of credit unions that are currently low-income would fail to qualify under the new definition, we are aware that there are a limited number of those that would.

These credit unions have in good faith developed business models, undertaken expenditures, devoted resources and established operations under the auspices of that designation, and we believe it is neither fair nor necessary to remove their designation. We believe NCUA has sufficient authority under the provisions in the FCU Act directing the Board to define “low income” to accomplish this result.

We also urge NCUA to develop a waiver process that will allow new applicants to qualify for low-income status under which the agency could consider additional criteria such as unemployment rates in the area and other relevant factors for credit unions on an individual basis that approximate requirements for low-income designation but do not precisely meet them.

The Outreach Task Force report indicates that the agency has the authority under the Act to designate state chartered federally insured credit unions as low-income. We support this, and urge NCUA to coordinate with state regulators on the practical implications of including federally insured credit unions under the regulation.

We believe the agency may have inadvertently excluded members who meet the income requirements, even if they don't live in a low-income area, from the definition. We urge the agency to amend the final rule to allow such individuals to be included as a basis for determining low-income status.

Some credit unions are concerned that it may be difficult to determine whether they meet the low-income requirements. We urge NCUA to make resources available to credit unions on the agency's website that will assist them in assembling and completing their applications.

Following the issuance of this proposal for comments, the agency embarked on a process to revise the criteria for determining when an area is underserved. One of the goals of this proposal is to make the low-income designation regulation more consistent with the underserved rule. We strongly recommend that NCUA coordinate this rulemaking on low-income credit unions with the underserved proposal to ensure consistency and facilitate outreach to underserved areas and low-income individuals.

Thank you for the opportunity to express our views on the definition of “low-income” credit unions.

Sincerely,

A handwritten signature in black ink that reads "Mary Mitchell Dunn". The signature is written in a cursive, flowing style.

Mary Mitchell Dunn
CUNA SVP and
Deputy General Counsel