



CYNTHIA L. BLANKENSHIP  
*Chairman*  
R. MICHAEL MENZIES  
*Chairman-Elect*  
JAMES D. MACPHEE  
*Vice Chairman*  
LARRY W. WINUM  
*Treasurer*  
WILLIAM C. ROSACKER  
*Secretary*  
TERRY J. JORDE  
*Immediate Past Chairman*

CAMDEN R. FINE  
President and CEO

August 15, 2008

Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314

Re: Organization and Operations of Federal Credit Unions; RIN 3133-AD48

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to offer comments on the National Credit Union Administration's (NCUA) proposal to modify its Chartering and Field of Membership Manual to update and clarify the process of approving credit union service to "underserved areas." Specifically, ICBA is commenting on two aspects of the proposal: (1) the changes to the "significant unmet needs" criterion and (2) the proposed methodology for determining whether the area is "underserved by other depository institutions."

### **ICBA's Position**

When the Credit Union Membership Access Act was enacted in 1998 (CUMAA), the NCUA Board was authorized to allow multiple common bond credit unions to serve members residing in "underserved areas," provided the credit union establishes and maintains a facility there. For an area to be "underserved," CUMAA requires the NCUA Board to determine that a local community, neighborhood or rural district is an "investment area" as defined in the Community Development Banking and Financial

---

<sup>1</sup>*The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

*With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).*

Institutions Act of 1994 (CDFI Act) and also that it is “underserved by other depository institutions.” The CDFI Act defines an “investment area” as a geographic area that “encompasses or is located in an empowerment zone or enterprise community” or that “meets the objective criteria of economic distress” developed by the CDFI Fund and also “has significant unmet needs for loans or equity investments.”

### *Significant Unmet Needs Test*

For several years, the NCUA allowed multiple common bond credit unions to presume in their applications that an area that was an “economic distressed” area using the CDFI criteria was also an area with “significant unmet needs for loans or financial services.” However, the NCUA is now proposing to change its Chartering Manual to require a credit union to support its “underserved area” application with a one-page “Narrative Statement” demonstrating a pattern of “significant unmet needs” in the proposed underserved area for loans or for one or more of the financial services that credit unions are authorized to offer. However, a credit union may choose which of these financial services to address and need not address all of them.

**ICBA believes that the proposed one-page Narrative Statement is inadequate and does not meet the statutory “significant unmet needs” test required under the CDFI Act.** ICBA recommends that the NCUA require the credit union to provide a broad based study that looks in detail at all of the financial services that are offered in the area including both physical facilities such as bank branches and ATMs as well as over the Internet to determine whether there are significant unmet needs for financial services.

For instance, it would be insufficient for an applicant to merely point out that because a distressed area has check cashing outlets or pawn brokers, then the area has “unmet needs for loans or financial services.” Many different areas of the U.S. have check cashing outlets or pawn brokers but that does not mean that those areas have unmet needs for loans or financial services. ICBA believes that each applicant should complete and submit a detailed, multiple page study that shows the extent to which financial services are offered and used in the proposed distressed area. This study should be supported by relevant, objective statistical data reflecting all of the financial service activities in the proposed distressed area and the extent to which a financial service is unmet. Furthermore, this study should be integrated with the applicant’s business plan. Comparisons should be made between the services used and offered in the proposed area and those that are used and offered in other parts of a state or region.

The NCUA should then review the study and the evidence and determine whether the area has “significant unmet needs for loan or financial services.” Since the relevant statutory language “refers to “significant unmet needs,” ICBA believes that the study should support the conclusion that there are several types of financial services that are unmet, not just one. Internet banking usage should also be looked at closely to determine whether electronic forms of banking are replacing traditional banking services in the proposed area and therefore are meeting needs.

### *Underserved by Other Depository Institutions*

CUMAA also requires that a multiple common bond applicant demonstrate that the proposed area is “underserved by other depository institutions.” The NCUA is proposing what it calls a “flexible methodology” to meet this requirement. Under the proposal, the applicant would compute the ratio of depository institution facilities to the population of the non-“distressed” tracts in a proposed area. This would be the benchmark level of adequate services. Then, the applicant would compute the ratio of facilities to the combined population of all of the tracts within the proposed area. If the benchmark ratio of facilities within the non-“distressed” tracts exceeds the ratio of facilities within all the tracts of the proposed area as a whole, the proposed rule deems the area to be “underserved by other depository institutions.”

**ICBA believes that the NCUA’s proposed test is inadequate to demonstrate that a proposed area is “underserved by other depository institutions” and does not meet the statutory requirement under CUMAA.** The ratio of depository institutions to population is only one of many factors that the NCUA should examine. The NCUA should also determine the extent to which the people who reside in the proposed area are using the bank branches and ATMs that are located there. For instance, a proposed “underserved” area may have only three branches and therefore a low ratio of facilities to combined population, but everyone in that area may be using those three branches and finding that they adequately meet all of their banking needs.

The NCUA should require that surveys be conducted in the proposed area to determine whether those who reside in the area consider themselves underserved. These surveys should also determine rates that are being offered for deposits and loans in the proposed area and the extent to which nontraditional forms of banking are being used. The applicant should be required to submit a detailed study complete with its survey information. The study should be supported by relevant, objective statistical data reflecting all of the financial service activities that are being used and available in the proposed distressed area. Comparisons should be made with other parts of a state or region.

### **Conclusion**

ICBA believes that the NCUA’s proposals to change the “significant unmet needs” criterion and the proposed methodology for determining whether the area is “underserved by other depository institutions” are inadequate and do not meet the statutory tests required under CUMAA and the CDFI Act. Accordingly, we urge that the NCUA withdraw and revise its proposed changes to the NCUA Chartering and Field of Membership Manual.

ICBA appreciates the opportunity to offer comments in connection with the NCUA’s proposal to update and clarify the process of approving credit union service to “underserved areas.” If you have any questions about our letter, please do not hesitate to contact me at 202-659-8111 or [Chris.Cole@icba.org](mailto:Chris.Cole@icba.org).

Sincerely,

/s/ Christopher Cole

Senior Regulatory Counsel