

June 09, 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 Board and Management of Bethpage Federal Credit Union, please accept the following comments and observations on the proposed changes to NCUA's Chartering and Field of Membership Manual (IRPS 08-2) as it relates to the approval process for credit union's applying to serve CDFI designated underserved areas.

Bethpage Federal Credit Union is deeply concerned that, as proposed, the rule will have a negative impact on federal credit union's ability to achieve their mission by reaching out to serve underserved areas. We are certain that NCUA means well as it attempts to make the rules on expanding service to underserved areas more efficient, but we fear that the proposal will have the opposite effect.

Serving the underserved has garnered much attention from legislators, regulators and other policy makers in recent years. We are convinced that credit unions are part of the solution, rather than part of the problem, when it comes to providing more effective and cost efficient financial services to the residents of underserved areas in America

Although we recognize that more can certainly be accomplished in this regard, we encourage the NCUA to make it easier for federal credit unions to serve more underserved residents and not harder.

One of the problems with the proposed rule is that it seeks to apply the same "well defined local community" standard to underserved areas as is required under the present law and regulations for community charters. This lengthy and cumbersome process will be a burdensome deterrent to serving underserved areas and may well force more credit unions to become community charters as they reason that, since they have to provide the



same documentation to serve a smaller underserved area as they do to serve a larger community, they should go for the larger area and apply for a community charter.

Although there is certainly nothing wrong with a credit union pursuing a community charter if that is its best strategic decision, it is unfortunate that those credit unions who would rather focus their extension efforts into a targeted underserved area or areas might forego that option in favor of a community charter simply because there is little difference in the documentation requirements.

We absolutely see no reason why NCUA should require underserved areas to be documented in the same way communities are documented. Underserved is underserved. If an area meets the underserved criteria through CDFI or some other relevant data, the area should be considered in need of additional consumer choices whether it meets the “well defined local community” standard or not.

“Underserved,” as a definition, should be objective in nature. To require that a neighborhood or residential area must be validated as underserved and also required to be a well established and recognized community is not consistent with the purpose of having a program for encouraging credit unions to serve more underserved residents – something that NCUA is now beginning to require that credit unions provide data to verify that we are doing.

The proposed rule also seeks to define additional factors that help qualify an underserved area as also being “economically distressed.” This is akin to saying that before we can consider someone who plays multiple instruments a musician he must also prove he can read music. There are certain factors that must be presumed in a presumption.

This proposal seems to require that merely meeting the objective criteria of CDFI or other acceptable independent data is not enough to be underserved and in need of additional lower cost consumer choices through the presence of another credit union in an underserved neighborhood. **In a significant change from current interpretation, the proposal would remove the presumption that unmet needs exist when objective underserved criteria are met.** This proposal would require a credit union to go beyond that presumption and demonstrate that an underserved area also has “significant unmet needs.”

The submission of a “one page narrative statement” supported by relevant, objective statistical data reflecting deposit, loan and other financial services activity already existing in the proposed area is absolutely unnecessary and redundant for underserved areas. The proposal also requires that the number of other depository institutions already

erving the area must be taken into consideration as well. Not only is this requirement unnecessary, it is also unclear as to the type of data and analysis required to meet this stipulation. For example, the reference in the proposal that the narrative can be supplemented by testimonial evidence, with no guidance as to the acceptability of various types of testimonial evidence, seems to be turning an objective definition of an underserved area into a subjective one.

Many cities qualify under existing rules as underserved based on the objective qualifying criteria. The proposed rule would prohibit the classification of a city as an underserved area, regardless of whether it meets the objective criteria, based upon it being a part of a MSA. This is unfortunate. From our perspective, if an entire city meets the criteria, it should be considered underserved. If a credit union can positively impact a city needing more choices by extending its service to that city, then that would be a positive development. Removing the ability to qualify cities within a MSA in their entirety makes it harder to develop a workable plan to market and extend its services to an underserved area. Few people know what census tract they reside in. Everyone knows his or her city of residence.

Along with the unnecessary requirement that credit unions show “significant unmet needs” in qualifying an underserved area, the proposal also calls for credit unions to demonstrate that the area is underserved by other depository institutions.

It is our belief that the presence of financial products and service providers is not a disqualifier for an area being underserved. Check cashers, pawn shops and payday lenders are often located across the street from banks and credit unions. The fact that there are other financial institutions in an area does not mean that the needs of the area are being met. In fact, if the financial institutions currently in a neighborhood were meeting the needs, it is unlikely that the area would continue to meet the underserved criteria year in and year out.

It would be a travesty to disqualify an underserved area’s residents from additional choices in financial services on the basis of their poor present choices. Choices other than the payday lenders and check cashers that are so prevalent in their neighborhoods is crucial to move those areas from the ranks of the underserved. More choices of traditional financial institutions, including the lower cost service providers like not-for-profit credit unions, will help break the cycle of dependency on these non-traditional sources with high cost products and services.

We find that the formula proposed in the rule to be used in determining the concentration of depository institutions is far too complex and will result in subjective decisions more than the present method which is clear and objective according to CDFI or other

applicable data. Our recommendation would be to remove the provisions related to both “significant unmet needs” and “underserved by other financial institutions” from the rule as contrary to the purposes of having a regulatory process to encourage credit unions to extend service to more underserved Americans – an encouragement that NCUA has not only maintained since adoption of the original underserved rule in 1994 but which the agency has now elected to gather data to verify.

It is also of note that, should NCUA remain convinced that some type of formula is needed to calculate the number of existing depository institutions in an underserved area in determination of whether additional service is needed, it is puzzling why the proposed rule would consider the inclusion of ATMs and even shared branches as authorized depository institutions but will not allow credit unions to use their own ATMs and shared branches as physical locations authorized to demonstrate their ability to serve an underserved area.

We do find ourselves in agreement with NCUA’s position to grandfather credit unions already serving underserved areas under the existing rules and not requiring them to go back through the approval process again. It is important that NCUA acknowledge the investment that many credit unions have made in extending their services to underserved areas. We do, however, have some concern that the proposal does not likewise grandfather underserved areas that have previously been approved. There seems to be no reason to require every credit union that is willing to help meet the needs of an underserved area to face the necessity of re-documenting the qualification of an area that has already been documented as underserved. For a reasonable period of time such as five years, an area that has been determined by NCUA as underserved for one credit union should likewise be considered underserved for another credit union willing to serve the same area. Those individual credit unions should have their applications to serve based upon financial, service and business considerations, not the qualification of the underserved area. To force each credit union to repeat the same documentation process already approved by NCUA seems arbitrary.

In closing, we would like to make the point that the proposed CURRA legislation (H.R. 519) includes a statutory definition of an underserved area. As this issue is presently before Congress and with no substantive need to amend these regulations before Congress has had to opportunity to address the issue, we feel that this proposal is not timely and likely will necessitate further amendment following congressional action on CURRA. We recommend that NCUA not act at this time on this unnecessary and burdensome regulation that might well fly in the face of congressional action designed to further the ability of credit unions to expand their services into underserved areas.


Bethpage
Federal Credit Union

516.349.6768 Tel
516.349.6765 Fax
kkordeleski@bethpa

Kirk Kordeleski
President and
Chief Executive Officer

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Thank you in advance for your consideration of our views on this proposed rule. Please do not hesitate to contact me if we can provide additional information on behalf of Bethpage Federal Credit Union.

Sincerely,



Kirk Kordeleski
President and CEO
Bethpage Federal Credit Union

CC: Chairman Johnson
Vice Chairman Hood
Board Member Hyland