



August 18, 2008

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

RE: 12 CFR Parts 701
RIN 3133-AD48
Proposed Amendments to Chartering Manual Regarding Approval of Underserved Areas

Dear Secretary Rupp:

On behalf of the Credit Union Association of New York, Inc. (the "Association"), I would like to take this opportunity to comment on NCUA's proposed revisions to its Chartering Manual regarding the approval of credit union applications to provide services to "underserved areas." We are concerned the proposals would create additional burdens for credit unions seeking to serve underserved areas and apply a formulaic approach to what is a fact sensitive inquiry. Since the ability of the credit union industry to provide financial services to areas in need of such services is already severely restricted, additional regulation is not prudent at this time.

Under existing regulations, even when a community is considered a "well defined" local community neighborhood or rural group (e.g. it is located in a in a single political jurisdiction or any contiguous portion thereof, or it is in multiple contiguous political jurisdictions and the population of the requested area does not exceed 500,000...) for purposes of a community charter application, a credit union must still submit a narrative letter detailing how the proposed area meets standards for community interaction and/or common interests. In contrast, no such narrative letter is required of those credit unions seeking to serve underserved areas. NCUA seeks comment on whether this presumptive narrative letter should be required for a credit union seeking to serve an underserved area.

The Association feels that a narrative letter requirement should not be extended to credit unions seeking to provide services in underserved areas. Simply put, where objective criteria already indicate that an area is well-defined, a narrative letter is duplicative at best and at worst a bureaucratic tripwire. In fact, it is far from clear that this requirement serves any purpose for community charters.

A similarly duplicative mandate would require credit unions, even after demonstrating that an area is economically distressed, to provide a narrative statement demonstrating a pattern of unmet needs and the loans and services that could be provided by the credit union to address them. An economically distressed area with low family incomes and/or a dwindling population that undoubtedly has a high unemployment rate provides more than enough objective evidence that a credit union willing to provide services would be helpful. In addition, the credit union's business plan for providing services to the area in question will serve the same function as this proposed narrative.

Leading the Way

Under existing law, for an area to be classified as underserved there also must be a demonstration that the area is underserved by other financial institutions, including credit unions. This proposal would test this requirement by applying a ratio whereby if the concentration of depository institutions in the area's non-distressed tracts is greater than the concentration of all other tracts combined, it would be considered underserved. Where there are no non-distressed tracts, an adjoining tract could be used. This is too important an issue to be reduced to a formula that may not in any real sense capture the full picture of an area's access to financial services. A formulaic approach to what is ultimately a fact sensitive inquiry runs the risk of depriving areas in need of financial services from the benefits credit unions could provide. Most importantly, the presence of financial institutions in certain part of a community doesn't demonstrate that all members of a community have access to sound financial services. For example, a bank might offer car loans at rates that are not competitive for poorer members of the community or the concentration of available financial institutions may be in areas that are not convenient for all members of the community. The language in the existing manual, which maximizes the flexibility of regulators to analyze an underserved area's financial landscape, should be maintained.

As a result of Court interpretation, the ability of credit unions to provide services to underserved areas is already restricted. This proposal, apparently being put forward to suggest greater consistency with other criteria, may in fact force consistency at the expense of our credit unions' ability to provide services to many communities that continue to be in need of such services. As a result, the Association strongly urges you to reconsider some of the impetus behind this proposal and suggest that this is not the time to be making major revisions to the Chartering Manual with regard to the qualifications of those credit unions that are still eligible to provide such services to underserved communities.

Sincerely,

A handwritten signature in black ink, appearing to read "W. J. Mellin". The signature is written in a cursive, slightly slanted style.

William J. Mellin
President/CEO