

Jordan, Sheron Y

From: _Regulatory Comments
Sent: Tuesday, August 19, 2008 7:32 AM
To: Jordan, Sheron Y
Subject: FW: Texas Credit Union League Comments on Proposed Rule 701.1

-----Original Message-----

From: Suzanne Yashewski [mailto:syashewski@tcul.coop]
Sent: Monday, August 18, 2008 6:29 PM
To: _Regulatory Comments
Cc: Dick Ensweiler; Buddy Gill; Mary Dunn
Subject: Texas Credit Union League Comments on Proposed Rule 701.1

August 18th, 1008

Mary Rupp

Secretary of the Board

National Credit Union Administration

1775 Duke Street

Alexandria, VA 22314-3428

VIA E-Mail to: regcomments@ncua.gov.

Re: Texas Credit Union League Comments on Proposed Rule 701.1 The Texas Credit Union League (TCUL) appreciates the opportunity to comment on the proposed revisions to the National Credit Union Administration's Rules and Regulations Part 701.1 concerning eligibility requirements for underserved areas. The Texas Credit Union League is the official trade association serving nearly 600 federal and state credit unions and more than 7 million credit union members in Texas.

This letter reflects the views of our member credit unions.

While NCUA should ensure its regulations comply with the Federal Credit Union (FCU) Act, we believe the current undeserved requirements are consistent with the FCU Act and question the need for these changes at

this time. We believe the proposal, as written, stands to limit credit unions ability to serve the underserved, an important credit union mission.

Legislation has passed the House, and we are hopeful it will pass the Senate this year that would allow all FCU charter types to add underserved areas. We encourage NCUA to take the legislation into consideration in deciding how it should process this proposal.

Meanwhile, NCUA should continue to allow multiple group FCU's to add underserved areas under the existing field of membership (FOM) requirements.

There is a three part test under the FCU Act, to determine whether an area is "underserved." Under the test, an underserved area must be: (1) a local community, neighborhood, or rural district; (2) an "investment area" (defined in the Community Development Banking and Financial Institutions Act of 1994 (CDFI Act), which is a geographic area (or areas) that meet the Community Development Financial Institutions Fund's (CDFI Fund) criteria for "economic distress" and have "significant unmet" financial needs; or be in an empowerment zone or enterprise community); and (3) "underserved by other depository institutions based on data" from NCUA and federal banking regulators. While these statutory provisions are not new, the proposal would clarify how credit unions are able to meet these requirements.

The proposal would subject underserved areas to the same definition of community that applies elsewhere in the agency's FOM requirements.

Currently, a somewhat different definition applies for undeserved areas.

There is no need for two definitions. The change would promote consistency within the FOM Manual, and we support it.

The criteria for single unit (county, census tract) undeserved areas is similar to the current FOM requirements. However, the criteria for multiple contiguous units add a new

requirement that 85% of the population be in the distressed areas. The proposal may make it more difficult to add multiple units as an underserved area.

To demonstrate the area has "significant unmet needs, the proposal would require a one-page Narrative Statement" addressing the pattern of unmet needs in the area for loans or one or more credit union services. This would be a new and potentially burdensome requirement for credit unions.

It likely will be difficult for credit unions to obtain the statistical data. Although the discussion in the proposal suggests that a credit union may rely on information from the chamber of commerce, not every area has a chamber of commerce. Additionally, a chamber of commerce likely will only list participants. It also seems redundant for the requirements to show an area meets the distress criteria and is underserved by other financial institutions. We support continuing the presumption that an area that is distressed is presumed to have significant unmet needs.

An FCU's business plan would also have to explain how the credit union plans to fulfill unmet needs for services as identified in the Narrative Statement. The business plans should primarily be a tool for the credit union and not a measurement device for the agency. The contents of the plans should be a business judgment for the credit union.

The proposal would clarify that approved areas must be underserved by other depository institutions, including credit unions. This requirement is met when the concentration of financial institution facilities in the non-distressed tracts in the area (or adjoining non-distressed tracts) is greater than the concentration of facilities in the total proposed area's tracts. This approach raises concerns because the area must be considered underserved at the time a new applicant seeks to add it. This means that applicants will have to demonstrate that the area is still distressed, has unmet needs and is underserved by other institutions.

Under this approach, credit unions that apply quickly for an underserved area will be allowed to serve since the more institutions, including credit unions in an area, the less likely it would be considered an underserved area. Also, questions arise as to how shared branches are treated; would they be seen as one financial institution or multiple financial institutions? Additionally, the fact that a large bank may have a branch in the area does not mean that the bank is actually serving the underserved.

Thank you for the opportunity to comment on the proposed revisions to Part 701.1 of NCUA's rules and regulations. If you have questions about our comments, please feel free to call me at (800) 442-5762 x 8516.

Sincerely,

Suzanne Yashewski

Vice President, Regulatory Compliance & Legal Affairs Texas Credit Union League

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