

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

APP Federal Credit Union

Docket No. 03-FOM-001

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from APP Federal Credit Union (APP or Credit Union). The Region III Director denied the Appellant's application to convert to a community charter.

Background

APP Federal Credit Union is a multiple group credit union located in West Palm Beach, Florida. It has approximately \$7.8 million in assets and 900 members. The field of membership consists of 13 select employee and associational groups. The Credit Union has one office, four full-time employees and one part-time employee. It is a small, limited service credit union, offering primarily vehicle and small consumer loans, regular shares, share drafts and term share accounts.

The Credit Union submitted its request to convert from a multiple group to a community charter in September, 2002. Initially, the Credit Union requested a portion of Palm Beach County, Florida. Region III deferred the application, pending additional information to show the area was a community as well as requiring an expanded business and marketing plan.

On March 27, 2003, the NCUA Board issued a revised chartering and field of membership policy (Interpretive Ruling and Policy Statement (IRPS) 03-1), 68 Fed. Reg. 18334, 4/15/03. IRPS 03-1 is set forth in NCUA's Chartering and Field of Membership Manual (Manual). The new IRPS 03-1 includes a revision of the definition of a local, well-defined community for purposes of chartering a community credit union to specifically include any area "in a recognized single political jurisdiction, i.e., a city, county, or their political equivalent, or any contiguous portion thereof." Ch. 2, V.A.2, p. 2-42. The preamble to the IRPS states that this is an irrebuttable presumption, regardless of population size, and that no documentation demonstrating that the political jurisdiction is a community would be required. 68 Fed. Reg. at 18337.

APP submitted a revised community conversion application on May 14, 2003, requesting to serve all of Palm Beach County. Palm Beach County has a population of

economically advisable.” Ch.1,V.B.1, p. 1-6 of Manual. Chapter 1 then addresses NCUA review of a charter application. It states in part: “The [NCUA] staff member will analyze the prospective credit union’s business plan for realistic projections, attainable goals, adequate service to all segments of the field of membership”

Ch.1,VII.A, p. 1-8 of Manual. Chapter 1 of the Manual requires that the applicant’s business plan have realistic projections and that it provide for adequate service to all segments of the field of membership.

Chapter 2 of the Manual sets forth specific requirements for each of the types of charters. Section V of Chapter 2 addresses the requirements for community charters. This section specifically references the requirements for a business plan set forth in Chapter 1. It states in part:

Accordingly, it is essential for the proposed community credit union to develop a detailed and practical business and marketing plan for at least the first two years of operation. The proposed credit union must not only address the documentation requirements set forth in Chapter 1, but also focus on the accomplishment of the unique financial and operational factors of a community charter.

Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plan submitted with their application.

Ch.2,V.A.2, p. 2-44 of Manual.

Chapter 2 goes on to set forth specific requirements for converting credit unions. It states in part: “An existing federal credit union may apply to convert to a community charter. ... The documentation requirements set forth in Section V.A.2 of this Chapter must be met before a community charter can be approved.” In addition, the converting credit union must submit “pro forma financial statements for the first two years after the proposed conversion, including assumptions – e.g., member share, loan, and asset growth” and a “marketing plan addressing how the community will be served.”

Ch.2,V.A.3, p. 2-44 – 45 of Manual. In conclusion, the Manual requires that each credit union applicant (including community charter conversion applicants) must submit a business plan that includes information on the provision of credit union service to the broad-based field of membership requested, i.e., service to all segments of the field of membership. Further evidence of this policy for community charters was previously published in preambles to chartering policies and is discussed below.

The preamble to IRPS 99-1, 63 Fed.Reg. 71998 (December 30, 1998), an earlier version of the Chartering and Field of Membership Manual, discussed availability of credit union service to the entire community.

The proposed rule on community charters specified that “[c]ommunity credit unions will be expected to follow, to the fullest extent economically possible, the marketing and/or business plan submitted with their application. The community credit union will be expected to regularly review its business plan as well as membership and loan penetration rates throughout the community to determine if the entire community is being adequately served.” ... The intent was to simply outline the expectation that community charters are chartered to serve the entire community, just like any other charter type should attempt to serve their field of membership, and not a portion of the approved well-defined area, and that the business plans should reflect this goal. That is the nature of a community charter. ... Again, the objective was to reiterate that community charters should make every effort to serve the community, and not just those groups already in the converting credit union’s field of membership.

63 Fed.Reg. at 72014.

As stated in the preamble to IRPS 99-1 above, community-chartered FCUs, like all other charters, must serve the entire field of membership (or the entire community). Their business/marketing plans must show such service can be provided. The language in the IRPS/Manual has not changed regarding this issue; hence there have not been repeated discussions in more recent preambles.

The FCU argues in its appeal that Region III does not want to give a small credit union that provides only limited services a large field of membership. The Manual is silent on the size of the community versus the size of the applicant credit union and on the types of services that must be offered. However, it is clear from the Manual that an applicant credit union must have the ability to reach out to the entire community and provide its services. At this point in time, as evidenced by its application, APP FCU does not intend to provide services to the entire community. XXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

The Manual requires an applicant credit union to submit adequate financial assumptions. However, the Credit Union’s balance sheet projections and accompanying assumptions are not adequate. XXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

Conclusion

The Region III denial of the Credit Union’s request for a community conversion with Palm Beach County, FL, as the proposed community was made in accordance with NCUA Board policy as stated in IRPS 03-1. The Credit Union did not show that it has the ability and intent to market to and provide services to the broad based field of membership that its requests. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

Order

For the reasons set forth above, it is ORDERED as follows:

The Region III Director’s decision denying APP Federal Credit Union’s application to convert to a community-chartered credit union is upheld and the appeal is denied.

So **Ordered** on the 18th day of December 2003, by the National Credit Union Administration Board.

Hattie Ulan
Acting Secretary, NCUA Board