



Credit Union National Association

cuna.org

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

November 26, 2012

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

Re: Comments on Notice of Proposed Rulemaking for Chartering and Field of Membership Manual; Chartering and Field of Membership Manual for Federal Credit Unions; RIN 3133-AE02

Dear Ms. Rupp:

This comment letter represents the views of the Credit Union National Association (CUNA) regarding the National Credit Union Administration's (NCUA's) proposed rule that would amend the definition of a "rural district" that applies to the community credit union charter, under NCUA's Chartering and Field of Membership Manual. By way of background, CUNA is the largest credit union advocacy organization in this country, representing approximately 90% of our nation's 7,000 state and federal credit unions, which serve about 95 million members.

### **CUNA Urges NCUA to Be More Permissive Than the Proposal Would Allow**

Under the proposal, if the population of the area is no more than 200,000 persons, or 3 percent of the population of the state in which the majority of the district's persons are located, whichever is greater, the area could qualify as a rural district. Other current charter requirements would remain, such as the area must be a well-defined, contiguous area and the population density could not exceed 100 persons per square mile.

CUNA agrees that the definition of a "rural district" should be revised to provide more flexibility to federal credit unions serving rural areas. While the proposed rule is a positive step, we do not think the proposal goes far enough to provide meaningful relief to those credit unions that provide services to rural communities. We also think that as discussed below, NCUA has legal authority to expand the definition of "rural district" beyond what it is proposing. We urge NCUA to allow as much authority as legally permissible to federal credit unions to facilitate their



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presence in these areas of the country that are often are in serious need of financial institution services.

### **The FCU Act Supports a Broader Definition**

As the agency itself has noted, there has only been a modest use of the rural charter since the agency changed the “rural district” definition two years ago, and fewer than 50 federal credit unions currently use the rural charter. We think this is a good indication that the current rule is too restrictive.

However, we are concerned that while the current rule should be addressed, the proposal will not provide significant relief to certain rural districts, particularly those that are in sparsely populated states, and the credit unions that seek to serve them. Based on our analysis, states such as Wyoming, South Dakota, North Dakota, Montana Alaska, Maine, West Virginia, Idaho, Utah, Nevada, will not see additional relief under the proposal because rural districts in those states constitute a higher percentage of the state’s total population. As the agency indicated, only 13 states will be able to obtain more flexibility for rural districts and those states include the most populous in the nation, such as California, New York, Illinois, Florida, Ohio, and Pennsylvania. Moreover, the larger the state, the greater the relief would be afforded under the proposal. While credit unions in the 13 states affected by NCUA’s proposal deserve relief, credit unions in other states do as well.

The Federal Credit Union Act (Act) provides more latitude than the proposal indicates for NCUA to set the parameters of a rural district in connection with a credit union charter and field of membership expansions, and we urge the agency to use that authority.

Under the Act, NCUA is directed to develop a definition “for the term ‘well-defined local community, neighborhood, or rural district...’” Since it is not possible to develop a single definition that applies in a meaningful way to “well defined local community, neighborhood, or rural district” as these are three distinct entities, we believe it is fair to assume Congress intended NCUA to develop a separate definition for each of these terms.

The agency’s treatment of “rural district” supports the interpretation that NCUA is not required to use the same approach in defining “rural district” as it does for defining “well-defined local community.”

In light of the fact the Act does not require NCUA to define “rural district” using the same approach that it employs for “well defined local community” we continue to urge NCUA to consider whether a statistical area definition for “rural district” is appropriate or necessary.

Also, developing a statistical definition for “rural” areas has been very difficult even for those organizations and agencies that address such matters far more frequently than NCUA.

Rather than attempting to define what rural districts are, NCUA could stipulate what they are not. In other words, NCUA could determine that rural districts are contiguous areas which are not urban, similar to the approach the U.S. Census Bureau and others have taken.

Also, the Act does not require NCUA to set an upper limit on the number of persons who constitute a rural district and we do not agree with statements that the population must be smaller than for areas that qualify as a well-defined local community.

In our view, NCUA should not set an outer limit on how many members may be included in a rural district. Rather, credit unions serving these areas should be allowed to determine for themselves the size of their fields of membership, governed by the credit union’s resources to serve the area sufficiently and its ability to manage safety and soundness concerns. We urge NCUA to consider this approach and undertake greater analysis regarding how the agency should address the definition of “rural district” to ensure credit union service continues in these important areas of our country.

We realize this approach will require much more in-depth analysis by NCUA. In the meantime, more flexibility could be provided to credit unions if NCUA amended the proposal to allow credit unions to serve districts with populations of up to 500,000 (the level we recommended in our April 2010 comment letter) or 4% of the state’s population, whichever is greater. We also think NCUA should eliminate the population density test. These changes will allow credit unions in more states that have populations of 5 million or more to benefit, while also providing meaningful relief to credit unions that operate in states that have smaller populations.

If NCUA adopts this approach, it should revisit the levels in one year’s time to determine whether they are appropriate.

Thank you for the opportunity to comment on this proposal. If you have any questions concerning our letter, please feel free to contact me at (202) 508-6736.

Sincerely,

A handwritten signature in cursive script that reads "Mary Mitchell Dunn".

Mary Mitchell Dunn  
CUNA Senior Vice President and Deputy General Counsel