

## Field of Membership

### Overview

NCUA's Office of Credit Union Resources and Expansion (CURE) currently handles almost all decisions made by NCUA on specific chartering and field of membership expansions and is located at NCUA's headquarters in Alexandria. Prior to 2011, NCUA regional offices handled chartering and field of membership issues.

NCUA's Chartering and Field of Membership Manual is divided into four chapters:

- Chapter 1 addresses federal credit union chartering
- Chapter 2 contains separate sections on the four types of federal charters
- Chapter 3 addresses low-income credit unions and serving underserved areas
- Chapter 4 addresses conversions from federal to state credit union charter and from state to federal credit union charter

As mentioned above, Chapter 2 is divided into four sections covering each of the types of federal credit union charters: occupational common bond, associational common bond, multiple occupational/associational common bond, and community charters. For a little background, in 1999, NCUA reformatted its field of membership manual to make it easier for federal credit unions wanting to know the rules for their particular type of charter. This format allows a single common bond federal credit union to have to look at only one part of the manual to determine what it needs to know. This approach, however, makes Chapter 2 very repetitious, as numerous policies and procedures are repeated three or four times throughout the chapter.

The FOM manual makes the following distinctions among the types of federal charters:

*Single occupational common bond:* If a credit union serves a single occupational sponsor, such as "the employees of XYZ Corporation," it will be designated as an occupational credit union.

*Single associational common bond:* If a credit union serves a single associational sponsor, such as the Marine Corps Reserve Officers Association, it will be designated as an associational credit union.

*Multiple common bond:* If a credit union serves more than one group, each of which has a common bond of occupation and/or association, it will be designated as a multiple common bond credit union.

*Community:* All community credit unions will be designated as such in their charters, followed by a description of their geographic boundaries (e.g. city or county).

Although a multiple common bond federal credit union can mix dozens of associations and companies, serving a wide variety of organizations and employers, a multiple group credit union cannot include a

community, except by adding a low-income community, as discussed in the section on serving low-income people later in this summary.

## Definitions

NCUA's field of membership policies contain a number of important terms:

**"Common bond"** —The characteristic or combination of characteristics which distinguishes a particular group of persons from the general public. There are two common bonds which can serve as a basis for a group forming a federal credit union or being included in an existing federal credit union's field of membership: Occupational—employment by the same company, related companies or in a trade, industry, or profession (TIP); and associational—membership in the same association.

**"Community credit union"** —A credit union whose field of membership consists of persons who live, work, worship, or attend school in the same well-defined local community, neighborhood, or rural district.

**"Economic advisability"** — An overall evaluation of the federal credit union's ability or charter applicants' ability to operate successfully.

**"Exclusionary clause"** — A limitation, written in a credit union's charter, which precludes the credit union from serving a portion of a group which otherwise could be included in its field of membership. These clauses have been used to prevent certain overlaps of fields of membership between credit unions.

**"Field of membership" (FOM)** — The persons (including businesses, organizations and other legal entities) that a federal credit union is permitted to accept for membership.

**"Multiple common bond credit union"** — A credit union whose field of membership consists of more than one group, each of which has a common bond of occupation or association.

**"Overlap"** — When a group of people is eligible for membership in two or more credit unions.

**"Primary potential members"** — People who belong to an associational or occupational group; this excludes family, and other people sharing the common bond.

**"Service area"** — The area that can be reasonably serviced by the service facilities accessible to the groups within the field of membership.

**"Service facility"** — A place where shares are accepted for members' accounts, loan applications are accepted, or loans are disbursed. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, a video teller machine or a credit union owned electronic facility that meets, at a minimum, these requirements. A service facility also includes a shared branch or a shared branch network if either: (1) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or (2) the service facility is local to the credit union and the credit union is an authorized participant in

the service center. This definition does not include the credit union's website. A service facility does not include an ATM or interest in a shared branch network for purposes of serving an underserved area.

**“Single associational common bond federal credit union”** – A federal credit union whose field of membership includes members and employees of a recognized association.

**“Single occupational common bond credit union”** — A credit union whose field of membership consists of employees of the same entity or related entities or part of a Trade, Industry, or Profession (TIP).

**“Trade, industry or profession (TIP) common bond”** A single occupational common bond credit union based on employment in a trade, industry, or profession including employment at any number of corporations or other legal entities that while not under common ownership—have a common bond by virtue of producing similar products, providing similar services, or participating in the same type of business.

**“Underserved community”** — A local community, neighborhood, or rural district that is an “investment area” as defined in Section 103(16) of the Community Development Banking and Financial Institutions Act of 1994. The area must also be underserved based on other NCUA and federal banking agency data.

## Chartering

While Chapter 1 of the field of membership manual provides some of the requirements to charter a federal credit union with more specifics found in Chapter 2, in September 2014 NCUA released its first “Federal Credit Union Charter Application Guide.” This Guide is available on NCUA’s field of membership webpage and spells out in detail what needs to be done. The Guide is broken down in the following sections:

- Part 1 discusses the preliminary work that needs to be done by organizers before starting the chartering process.
- Part 2 addresses identifying subscribers to start up the credit union, securing funding for operational costs, identifying a location, and completing a survey of the potential membership.
- Part 3 covers putting together the operational and financial plans for the proposed charter, including finding a mentor, identifying officials and staff, developing a detailed and realistic business and marketing plan, completing NCUA’s chartering forms, and developing bylaws, policies and procedures.
- Part 4 discusses NCUA review of the chartering package.
- Part 5 includes 13 attachments with checklists, templates, resource materials, etc.

An overview of NCUA’s chartering goals and procedures are briefly described below.

### Chartering Goals

NCUA’s stated goals of its chartering policies are:

- To encourage the formation of credit unions
- To uphold the provisions of the Federal Credit Union Act

- To promote thrift and credit extension
- To promote credit union safety and soundness
- To make quality credit union service available to all eligible people

In granting a charter, NCUA will evaluate if:

- The group(s) possess an appropriate common bond or the community represents a well-defined local community, neighborhood or rural district;
- The “subscribers” are of good character and are fit to represent the proposed credit union; and
- The establishment of the credit union is economically advisable.

The Federal Credit Union Act requires that seven or more natural persons – “subscribers” – present to NCUA a sworn organization certificate which states, among other things, the proposed name for the credit union (the word “federal credit union” has to be the last three words), the proposed location and the territory it will serve, the initial par value of the shares, and the detailed proposed field of membership.

Before chartering a federal credit union, NCUA must conclude that the credit union’s chartering is, in fact, “economically advisable.” This is a determination that a potential charter will have a reasonable opportunity to succeed. The field of membership manual states that the success of any credit union depends on (a) the character and fitness of management, (b) the depth of the members’ support, and (c) present and projected market conditions.

NCUA has not set a minimum field of membership size for chartering a federal credit union. However, based on NCUA’s experience a charter application with fewer than 3,000 primary potential members (which excludes family members) may not be economically advisable and will need to provide more supporting information with the application. For example, a small occupational or associational group may be required to demonstrate a commitment for long-term support from the sponsor.

### **Elements of a Business Plan**

Before NCUA will charter a credit union, it must receive from the organizers of the potential credit union, a business plan based on reasonable and supportable projections and assumptions. The chartering and field of membership guide describes NCUA’s expectations in detail, but the business plan must address such things as:

- A mission statement
- An analysis of market conditions (geographic, demographic, employment, income, housing, etc.)
- Evidence of member support
- Goals for shares, loans and number of members
- Financial services needed and desired
- Financial services to be provided
- How and when services are to be implemented
- Organizational/management plan addressing qualifications and planned training of officials and employees
- Continuity plan for directors, committee members, and management staff

- Operating facilities, including office space, safeguarding of assets, and insurance coverage
- Type of recordkeeping and data processing system
- Detailed semi-annual pro forma financial statements for the first two years (including assumptions of loan rates and dividends rates)
- Plans for operating independently
- Written policies (shares, lending, investments, funds management, capital accumulation, dividends, collections)
- Sources of funds to pay expenses during the initial months of operation
- Evidence of sponsor commitment (or other source of support) if subsidies are critical

## **Supervision of Newly Chartered FCUs**

Newly chartered credit unions can expect to operate under a “Letter of Understanding and Agreement” or “LUA” with NCUA – usually for a period between two to four years. The LUA spells out some of the agency’s expectations for management. A sample of an LUA is found in the Chartering Manual. An NCUA examiner will typically require the new credit union to submit copies of monthly board minutes and financial statements.

The Federal Credit Union Act requires all newly chartered, federally insured credit unions, up to two years after the date the charter has been granted, to obtain NCUA approval prior to the appointment of any new board member, credit or supervisory committee member, or senior executive officer. (Section 701.14 of NCUA’s regulations covers the specifics; this rule also applies to newly chartered state-chartered credit unions that hold federal insurance.)

## **MEMBERSHIP RULES**

### **General Requirements**

Section 5 of every federal credit union’s charter describes the federal credit union’s “field of membership,” which is defined as “the persons (including organizations and other legal entities) a credit union is permitted to accept for membership.”

Corporations, partners, associations and other non-natural-person legal entities can often qualify to belong to federal credit unions. Often, businesses and associations do not have to be specifically listed in the credit union’s charter because the owners or associations’ members are composed of individuals who are eligible for membership – “organizations of such persons” qualify for membership. Beginning in 2003, NCUA also allows federal credit unions to add a standard clause to section 5 of their charters as part of “Other Persons Eligible for Credit Union Membership.” The clause reads, “and corporate and other legal entities in this charter.”

Generally, federal credit unions can offer share accounts and grant loans only to persons (individuals and businesses) within the field of membership who have become members of the credit union. Section 701.32 of NCUA’s regulations, however, allows all federal credit unions to provide all types of shares (share accounts, share drafts and share certificates) to government entities and nonmember credit unions. The maximum amount of all public unit and nonmember shares cannot exceed 20% of the total shares of the credit union or \$1.5 million, whichever is greater, unless a higher amount has been approved by the NCUA regional director. This limit applies to all federally insured credit unions.

In addition, federal credit unions that serve predominantly low-income members can receive a designation by NCUA as “low-income status” which allows the credit union to receive funds (shares) from any nonmember. Section 701.34 addresses the requirements for the low-income designation and is discussed later in this summary in the section on “Federal Credit Unions Serving Underserved Areas.”

### **Advertising Requirements**

In September 2013, NCUA issued Letter to Federal Credit Unions No. 13-FCU-03 because of concerns that some federal credit unions may have “overly aggressive marketing campaigns” to facilitate membership through associational groups by providing consumers with misleading information about single and multiple common bond membership requirements.

NCUA emphasized that if a federal credit union “is advertising that *anyone*, without limitation, is able to become a member of your credit union, then *you may be in violation of federal law and regulation.*” NCUA noted that it is particularly concerned about advertisements that a federal credit union is “open to anyone.” The Letter also notes that the agency “has begun conducting quality control reviews of federal credit unions that may be improperly using associations to sign up members without a common bond.” Depending on the degree of non-compliance, NCUA noted that it could require a credit union to divest an associational group and/or issue a cease-and-desist order.

### **NCUA’s Policy on Serving “Other Persons Eligible for Credit Union Membership”**

Chapter 2 of the field of membership manual addresses what people federal credit unions can serve. Federal credit unions can restrict themselves in their charter to serving, for instance, *only* the employees of the ABC Corporation. Even most single common bond credit unions do not maintain such a restricted membership. Most federal credit unions include in their charter language allowing them to also serve the immediate family members of employees.

A common question about field of membership policies involves serving what NCUA refers as “other persons sharing common bond.” The same rules apply, regardless of type of federal charter. As noted earlier, the field of membership manual is repetitious, so the same information on family and household membership is found in Chapter 2 in four places: Sections II.H (for occupational common bonds), III.H (for associational common bonds), IV.H (for multiple common bonds), and V.G (for community credit unions).

NCUA’s field of membership manual states what other persons are eligible for membership by their relationship with the credit union at the charter applicant’s choosing. NCUA’s policy on those people that are considered closely associated with a credit union, regardless of whether it is a single group, multiple group, or community credit union, is quoted in the section below. The definitions are almost the same for all types of credit union common bond, except that the associational and community credit unions’ definitions do not mention employment.

Honorably discharged veterans who served in any of the Armed Services of the United States listed in the credit union’s charter was added to the list of “other persons eligible for credit union membership” in February 2017.

### **NCUA’s Definition of “Other Persons Eligible for Credit Union Membership”**

“A number of persons, by their close relationship to a common bond group, may be included, at the charter applicant’s option, in the field of membership. These include the following:

Spouses of persons who died while within the field of membership of this credit union;  
Employees of this credit union;  
Persons retired as pensioners or annuitants from the employment organization(s) listed in the charter;  
Volunteers;  
Members of the immediate family or household;  
Honorably discharged veterans who served in any of the Armed Services of the United States listed in this charter;  
Organizations of such persons; and  
Corporate or other legal entities in this charter.

“Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. For the purposes of this definition, immediate family member includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

“Household is defined as persons living in the same residence maintaining a single economic unit.

“Membership eligibility is extended only to individuals who are members of an “immediate family or household” of a credit union member. It is not necessary for the primary member to join the credit union for the immediate family or household member of the primary member to join, provided the immediate family or household clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join for that person’s immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

“Volunteers, by their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or church.”

### **Immediate Family and Household Members**

It is not necessary for the primary member to join the federal credit union for certain “immediate family” and people living in the same “household” to join if the immediate family clause is included in the federal credit union’s charter. However, it is necessary for the immediate family member or household member to first join for that person’s immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family member or household.

NCUA’s field of membership manual defines “*primary potential member*” (not primary member). “Primary potential members” are those people who are employees of occupational groups, who are members of associational groups; or who live, work, worship, or attend school within a community-chartered credit union’s field of membership.

An “immediate family member” is a spouse, child, sibling, parent, grandparent, or grandchild of the primary potential member. The definition includes stepparents, stepchildren, stepsiblings, and adoptive

relationships. These relationships are *not* dependent on the person living under the same roof as the primary potential member.

If a person does not qualify for membership as a family member, he or she may nevertheless be eligible because the primary potential member and this person are a “household,” that is “living in the same residence maintaining a single economic unit.” This definition includes domestic partners and legal guardians of primary potential members, and those sharing an apartment or house on a relatively stable basis. The definition of “household” contemplates some permanency and participating in the maintenance of the household. NCUA says that while roommates in a single residence would meet the definition, a fraternity, sorority, or nursing home would be excluded from the definition of “household.”

A federal credit union can adopt stricter membership eligibility requirements than allowed by NCUA's definitions. There may be practical reasons to do so, such as a sponsor restricts accessibility to the credit union's office located in the sponsor's plant. Also, a federal credit union can require the primary potential member to join before a family member joins.

If a federal credit union wants to create a family/household policy more restrictive than what is provided in the NCUA definitions, the credit union board can do so by adopting “board policy,” which would only take a majority vote, not the two-thirds vote necessary for a bylaw amendment.

Essentially any other people who, by their relationship to the common bond group, are allowed to be included within the field of membership a federal credit union. Continuing NCUA's long-standing policy, federal credit unions have the option of also offering membership to spouses of persons who died while within the field of membership of the credit union. In addition, people who retire from companies within the credit union's field of membership and are receiving pensions are also eligible to join. Also, employees and volunteers of the credit union would qualify for membership if the federal credit union chooses to include them in its field of membership.

### **“Once A Member, Always A Member”**

Since 1966 federal credit unions have been allowed to decide if they want to include the policy of “once a member, always a member.” Until 1999, a federal credit union had to adopt a board resolution to permit people to retain their membership once the individual left the common bond group (Article II, section 5 of the pre-1999 federal credit union bylaws). A 1998 amendment to the Federal Credit Union Act (CUMAA) makes clear that once a person becomes a member of the federal credit union, the person may choose to remain a member as long as he or she wants, unless formally expelled from the membership of the credit union.

NCUA's policy on “once a member, always a member” specifically states:

“Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as ‘once a member, always a member.’ The ‘once a member, always a member’ provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.”

NCUA decided that the wording of the law requires *all* federal credit unions to recognize “once a member, always a member” (unless a member is expelled in accordance with the Federal Credit Union Act procedures).

### **Serving Foreign Nationals**

Chapter 1, Section XII on foreign branching in the field of membership manual addresses the question of whether a federal credit union is permitted to service a foreign national within its field of membership. The NCUA policy is:

“Federal credit unions are permitted to serve foreign nationals within their field of membership wherever they reside provided they have the ability, resources, and management expertise to serve such persons. Before a credit union opens a branch outside of the United States, it must submit an application to do so and have prior written approval of the regional director or Office of National Examinations and Supervision Director. A federal credit union may establish a service facility outside the United States as long as the service facility is located on a United States military installation or United States embassy without prior NCUA approval.”

### **Expanding a Federal Credit Union’s Field of Membership**

A major part of NCUA’s field of membership policies address how a federal credit union can add new groups to its charter. Adding new groups to a credit union’s field of membership are addressed in Chapter 2 of the field of membership manual. There are some general areas to discuss first, and then each type of charter has to be considered in determining restrictions on charter expansions.

A short-hand term that is often used but is no longer found in any glossary on field of membership policy, is “SEG.” When NCUA first adopted its multiple group chartering policy in 1982, the term “select employee group” – or SEG – was commonly used to refer to groups added under NCUA’s expansion procedures. Even this shorthand name has always been a misnomer, because federal credit unions can add both occupational groups and associational groups (that are not employee groups) under the multiple group authority. Nevertheless, you will often hear people refer to SEGs when talking about multiple group credit unions (as in “the credit union has 150 SEGs”). The field of membership manual uses the term “select group.”

A point to note is that so-called “SEP” expansions have not been allowed since 1996. Until the bankers’ lawsuit froze group additions to federal credit unions in 1996, NCUA had authorized a “Streamlined Expansion Procedure” (SEP), which allowed credit unions to add small groups without prior NCUA approval. The 1998 amendments to the Federal Credit Union Act require NCUA to make a written determination of the appropriateness of adding new groups, even if the group is a two-person dental office. Federal credit unions can continue to serve members from groups brought into their fields of membership by the SEP process.

### **NCUA’s Policy on Overlaps and Exclusionary Clauses**

NCUA’s policy on overlaps and exclusionary clauses was notably changed in 2003. As explained in the earlier section on definitions, an overlap exists when a group of persons is eligible for membership in two or more credit unions. Overlap policy is discussed in Chapter 2 of the field of membership manual

at: Section II.E (for single occupational common bonds); at III.E (for single associational common bonds); at IV.E (for multiple group common bonds); and V.E. (for community credit unions).

Currently, the following apply:

- NCUA will permit single occupational federal credit unions to overlap any other charter without performing an overlap analysis.
- NCUA will permit single associational federal credit unions to overlap any other charters without performing an overlap analysis.
- NCUA will permit community credit unions to overlap any other charters without performing an overlap analysis.

However, for multiple common bond credit unions it gets a little more complicated. An overlap exists when a group of persons is eligible for membership into two or more credit unions, including state charters. For multiple common bond credit unions an overlap is permitted when the expansion's beneficial effect in meeting the convenience and needs of the members of the group proposed to be included in the field of membership outweighs any adverse effect on the overlapped credit union. Credit unions must investigate the possibility of an overlap with federally insured credit unions prior to submitting an expansion request if the group has 5,000 or more primary potential members. If cases arise where the assurance given to the CURE Director concerning the unavailability of credit union service is inaccurate, the misinformation may be grounds for removal of the group from the federal credit union's charter.

When an overlap situation requiring analysis does arise, officials of the expanding credit union must ascertain the views of the overlapped credit union. If the overlapped credit union does not object, the applicant must submit a letter or other documentation to that effect and the overlap will be permitted by NCUA if there aren't any safety and soundness concerns. If the overlapped credit union does not respond, the expanding credit union must notify NCUA in writing of its attempt to obtain the overlapped credit union's comments.

NCUA will permit multiple common bond federal credit unions to overlap community charters without an overlap analysis.

If there are overlap issues because of a restructuring or merger of the parent organization, each credit union must request a field of membership amendment to reflect the new groups each wishes to serve. The credit union can continue to serve any current group in its field of membership.

A few words about exclusionary clauses. An exclusionary clause is defined as a limitation which precludes an FCU from serving a portion of the group that would otherwise be within its field of membership. NCUA no longer grants exclusionary clauses, but those granted prior to the adoption of the 2017 Chartering and Field of Membership Manual (December 2016) will remain in effect unless the credit union agrees to remove them or an affected credit union submits a housekeeping amendment to have any exclusionary clauses removed.

Application Forms for Adding Groups (Forms 4015, Form 4015-A, and 4015-EZ)

There are specific forms used for adding new groups to a federal credit union's charter:

- Form 4015 is used for all multiple common bond expansions involving groups of 5,000 or more persons.
- Form 4015-A is used for a multiple common bond expansion for groups between 3000 and 4999 persons.
- Form 4015-EZ is used for all single common bond expansions, and for all multiple common bond expansions involving groups of less than 3,000 persons.

These forms for adding groups to expand a credit union’s field of membership are found at the end of the field of membership manual. These forms are also available on NCUA’s website. In deciding which form to use, potential family members are *not* counted; only the primary potential members are counted. This means count the employees in the company or members of the association to determine if the group meets the requirements as specified by the form.

NCUA’s rules for handling expansions depend on the type of federal charter the credit union making the expansion application holds. Each of the four types of expansion is summarized in the next four sections.

### **Single Occupational Common Bond Federal Credit Unions**

A federal credit union is classified as having a single occupational common bond if it serves:

- Employees (or persons having a long-term contractual relationship equivalent to employment) of a single corporation or other legal entity
- Employees of a corporation at least 10% owned by another corporation the credit union serves
- Employees in a corporation related by contract or a strong dependency to another corporation the credit union serves
- Employees of a school, as well as students at the school (student groups can be classified as either occupational or associational)
- Employment in the same Trade, Industry, Or Profession (TIP)

In order to retain its single occupational common bond, the credit union can only add groups that are closely related to the credit union, as defined above. However, unlike multiple group common bond federal credit unions, a single occupational common bond federal credit union does *not* have a geographic limitation as from what areas it can draw new, closely-related groups (that is, no “reasonable proximity” test). This is a very important distinction. For purposes of describing field of membership, the geographic areas being served may be included in Section 5 of the federal credit union’s charter.

The geographic description may be as narrow as listing a county or as wide of as the United States. Examples of single occupational common bonds are:

- Employees of the Hunt Manufacturing Company who work in West Chester, Pennsylvania. (common bond—same employer with geographic definition);
- Employees of the Buffalo Manufacturing Company who work in the United States. (common bond—same employer with geographic definition);

- Employees, elected and appointed officials of municipal government in Parma, Ohio. (common bond—same employer with geographic definition);
- Employees of Johnson Soap Company and its majority owned subsidiary, Johnson Toothpaste Company, who work in, are paid from, are supervised from, or are headquartered in Augusta and Portland, Maine. (common bond—parent and subsidiary company with geographic definition);
- Employees of MMLLS contractor who work regularly at the U.S. Naval Shipyard in Bremerton, Washington. (common bond—employees of contractors with geographic definition);
- Employees, doctors, medical staff, technicians, medical and nursing students who work in or are paid from the Newport Beach Medical Center, Newport Beach, California. (single corporation with geographic definition);
- Employees of JLS, Incorporated and MJM, Incorporated working for the LKM Joint Venture Company in Catalina Island, California. (common bond—same employer—ongoing dependent relationship);
- Employees of and students attending Georgetown University. (common bond—same occupation);
- Employees of all the schools supervised by the Timbrook Board of Education in Timbrook, Georgia. (common bond—same employer); or
- All licensed nurses in Fairfax County, Virginia. (occupational common bond TIP).

### **Trade, Industry or Profession (TIP)**

A single occupational common bond credit union can have a field of membership based on a single occupational common bond encompassing a well-defined trade, industry or professional (TIP). However, the TIP cannot be defined so broadly as to include groups in fields which are not closely related. It may include, on a case-by-case basis, employees of types of entities that have a “strong dependency relationship” and work directly with other types of entities within the industry.

### **Expansion of Single Occupational Common Bond**

Amendments to Section 5 of a single occupational federal credit union’s charter defines the field of membership the credit union can legally serve. Only those persons or legal entities specified in the field of membership can be served. The following instances of amending Section 5 of a federal credit union’s charter must be approved by NCUA:

1. A group sharing the credit union’s common bond is added to the field of membership. This may occur through various ways including arrangements between the group and the credit union directly. It may also happen through a merger, corporate acquisition, purchase and assumption (P&A), or spin-off.
2. If a credit union’s entire field of membership is acquired by another corporation, the credit union can serve the employees of the new corporation and any subsidiaries after receiving NCUA approval.
3. A federal credit union qualifies to change its common bond from a single occupational common bond to a single associational common bond; or from a single occupational common bond to a community charter; or a single occupational common bond to a multiple common bond.

4. A federal credit union removes a portion of the group from its field of membership through agreement with the group, a spin-off, or because a portion of the group is no longer in existence.

### **TIP Expansion**

Removing or changing a geographical limitation will be processed as a housekeeping amendment. If safety concerns are present, the CURE Director may require additional information before the request can be processed.

### **Sold or Spun-off groups**

Any sold or spun-off groups as a result of restructuring requires a change to the credit union's field of membership. The sold or spun-off group must qualify for membership in the credit union on its own otherwise NCUA will not permit the single common bond credit union to include it in its membership. Another option to serve the sold or spun-off group would be for the credit union to convert to a multiple common bond credit union.

### **Associational Common bond**

In 2015, NCUA adopted new rules to clarify how it determines if an association that a federal credit union wants to add to its charter satisfies the agency's associational common bond requirements; these rules really spell out what NCUA has been doing for some time in assessing charter applications involving associational groups.

NCUA states that an association "must not have been formed primarily for the purpose of expanding [federal] credit union membership" and must serve "some other separate function as an organization." This is the "threshold requirement" in NCUA's analysis of whether to approve the addition of an association. If the group crosses that threshold, then the agency uses a "totality of the circumstances test" to determine if the association satisfies the agency's common bond requirements.

NCUA has 12 pre-approved categories that automatically meet the associational test:

- Alumni associations
- Religious organizations, including churches or groups of related churches
- Electric cooperatives
- Homeowner associations
- Labor unions
- Scouting groups
- Parent-teacher associations organized at the local level to serve a single school district
- Chamber of commerce groups (members only, not employees of members)
- Athletic booster clubs whose members have voting rights
- Fraternal organizations or civic groups with a mission of community service whose members have voting rights
- Organizations having a mission based on preserving or furthering the culture of a particular national or ethnic origin

- Organizations promoting social interaction or educational initiatives among persons sharing a common occupational profession

If the association does not fall into one of these categories, a federal credit union needs to submit documents to support how the group is a valid association. NCUA will then apply its “totality of the circumstances test” to assess the membership eligibility of the association. While no one of the eight factors is determinative (and certainly not all eight have to be met), NCUA says its primary focus is on these four factors:

1. Whether the association provides opportunities for the members to participate in furthering the goals of the association.
2. Whether the association maintains a membership list.
3. Whether the association sponsors activities other than credit union membership.
4. Whether the association’s eligibility requirements are “authoritative” (NCUA says it’s important “for an association to avoid having lax enrollment standards”).

The next three factors are:

5. Whether the members pay dues. [NCUA has a long-standing policy which allows a federal credit union to “pay its member’s association dues if the member has given his or her consent.”]
6. Whether the members have voting rights (either directly or for a delegate who represents the member’s interests).
7. The frequency of meetings.

And the last factor in the “totality” test was added in 2015:

8. Corporate separateness (which means that the federal credit union’s and the group’s business transactions, accounts and records are not intermingled).

NCUA’s long-standing policy is that associations based primarily on a “client-customer relationship” (such as a health club) do not qualify to be added to an FCU’s charter and that individuals only making a donation to an association are not eligible for FCU membership.

### **Expansion of a single associational common bond federal credit union**

An existing single associational federal credit union that submits a request to amend its charter must provide documentation that the common bond of association has been met. The CURE Director needs to approve all amendments to field of membership.

### **Multiple Common Bond Federal Credit Unions**

A federal credit union may be chartered to serve many distinct, unrelated occupational or associational groups. This type of federal credit union is called a multiple group federal credit union. Each group in the field of membership must have its own occupational or associational common bond. As an example, a multiple common bond credit union may include two unrelated employers, or two unrelated associations. Additionally, the groups must be within the service area of one of the credit union’s service facilities.

A multiple common bond credit union cannot include a TIP or expand using single common bond criteria. Multiple common-bond federal credit unions have parity with single common bond charters and can add persons who work regularly for an entity that is under contract to any of the multiple select employee group sponsors listed in its charter. In order to do so the contractor and sponsor must have a strong dependency relationship in each case.

Office park or industrial park tenants (in each one's capacity as an employer) are also eligible to be included within a multiple occupational common bond credit union **if** the following two conditions are met:

1. Each employee group must have fewer than 3,000 employees working at a facility within the park, and
2. Only those employees who work regularly at the park during their employer's tenancy would be eligible for federal credit union membership.

New tenants to the industrial park would be eligible for membership as long as they meet the conditions stated above.

NCUA will approve groups to a credit union's field of membership if the agency determines in writing that the following criteria are met:

- A. The federal credit union has not engaged in any major unsafe or unsound practice, as determined by CURE, with input from the regional director or Office of National Examinations and Supervision director, during the one-year period preceding the filing to add the group.
- B. The federal credit union is "adequately capitalized," pursuant to Part 702 of NCUA's Rules and Regulations. There may be flexibility determined by NCUA. Low-income credit unions or credit unions that have been chartered less than 10 years may also have some flexibility if they are less than "adequately capitalized."
- C. The federal credit union has the administrative capability to serve the proposed group and the financial resources to meet the need for additional staff and assets to serve the new group.
- D. Any potential harm the expansion may have on any other credit union is clearly outweighed by the probable beneficial effect of the expansion.
- E. The formation of a separate credit union by the group is not practical and not consistent with reasonable standards for the safe and sound operation of a credit union.

Since 1998 with the passage of CUMAA, the Federal Credit Union Act requires NCUA to analyze the ability of groups seeking to join a multiple group federal credit union to form their own credit union. If NCUA concludes that the group is capable of chartering and successfully operating a credit union, the agency is not allowed to authorize it to join an existing federal credit union. As mentioned above, NCUA has made the presumption that no group under 3,000 in size will ever be able to support a viable credit union. With an applicant group having more than 3,000 potential members, NCUA is required by CUMAA to undertake a detailed analysis.

The field of membership manual states:

“It is incumbent upon the credit union [seeking to add the group] that the formation of a separate credit union is not practical. The group must provide evidence that it lacks sufficient volunteer and other resources to support the efficient and effective operations of a credit union or does not meet [NCUA’s] economic advisability criteria...If this can be demonstrated, the group may be added to a multiple common bond’s field of membership.”

The Federal Credit Union Act presumes that a group of 3,000 or more primary potential members can form a stand-alone credit union. NCUA may determine that it is not feasible for the group to form its own credit union.

A multiple common bond credit union requesting a select group expansion must submit a formal written request using the correct Application for Field of Membership Amendment (4015, 4015-A, 4015-EZ) to the CURE Director.

Form 4015 and 4015-A included two key terms:

*Service facility* is defined as a place where shares are accepted for members’ accounts, loan applications are accepted, or loans are disbursed.

*Service area* is the area that can reasonably be served by the service facility accessible to the groups within the field of membership. It will most often coincide with that geographic area primarily served the service facility.

## **Community Credit Unions**

The field of membership for community charters for federal credit unions must be based on “a well-defined local community, neighborhood, or rural district.” NCUA recognizes four types of affinity on which a community charter can be based – persons who live in, work (which includes “regularly conduct business in”), worship or attend school in the community, but all four affinities need not be included. Businesses and other legal entities regularly conducting business in the community may also qualify for membership. There isn’t existing NCUA policy that prohibits more than one credit union serving the same community. NCUA also recognizes special community charters that include people who work in a particular industrial park, shopping mall, office complex or similar developments that have defined geographic boundaries.

Chapter 2, Section V (revised in December 2016) of the field of membership manual offers details on community charter applications and expansions. NCUA has established the following requirements for a community charter:

- The geographic area’s boundaries must be clearly defined; and
- The area must be a well-defined, local community or rural district.

Well-defined means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (single, multiple or portions of a county) or a political equivalent, school

district, or a clearly identifiable neighborhood. Although state boundaries are well-defined areas, states themselves do not meet the requirement that the proposed area be a local community.

The well-defined local community requirement is met if:

- **Single Political Jurisdiction**—The area to be served is a recognized Single Political Jurisdiction, i.e., a city, county, or their political equivalent, or any single portion thereof.
- **Statistical Area**—A statistical area is all or an individual portion of a Core-Based Statistical Area (CBSA) designated by the U.S. Census Bureau, including a Metropolitan Statistical Area. To meet the well-defined local community requirement, the CBSA or a portion thereof, must be contiguous and have a population of 2.5 million or less people. An individual portion of a statistical area need not conform to internal boundaries within the area, such as metropolitan division boundaries within a Core-Based Statistical Area.
- **Compelling Evidence of Common Interests or Interaction**—In lieu of a statistical area as defined above, a narrative option is available when a credit union seeks to initially charter a community credit union; to expand an existing community; or to convert to a community charter. More information on the narrative option is provided below.

*The Narrative Option:*

The credit union must demonstrate that the areas in question are contiguous and further demonstrate a sufficient level of common interests or interaction among area residents to qualify the area as a local community. For that purpose, an applicant must submit for NCUA approval a narrative, supported by appropriate documentation, establishing that the area's residents meet the requirements of a local community. To assist a credit union in developing its narrative, Appendix 6 of NCUA's Field of Membership Manual identifies criteria a narrative should address, and which NCUA will consider in deciding a credit union's application to: initially charter a community credit union; to expand an existing community, including by an adjacent area addition; or to convert to a community charter. In any case, the credit union must demonstrate, through its business and marketing plans, its ability and commitment to serve the entire community for which it seeks NCUA approval.

Federal credit unions may apply to convert to a community charter as long as the field of membership requirements of the community charter are met. Groups within the existing charter of the credit union which can't qualify in the new charter cannot be served by the credit union once it converts. Only members of record, or those groups that were obtained in an emergency merger or purchase and assumption can remain. The credit union must notify all groups that they will be removed from the field of membership as a result of the conversion.

## **Summary of the Factors NCUA Considers for Field of Membership Expansion Requests**

Below is a summary of the factors NCUA considers when evaluating field of membership expansion requests for different types of federal charters:

**For a single common bond federal credit union (either occupational or associational) proposing to add a select group:**

NCUA will evaluate:

If the proposed group is part of or very closely related to the common bond of the applicant FCU  
The economic advisability of approving the group addition

NCUA *will not* evaluate:

If the group could form its own credit union (regardless of the group's size)

How close the group is to the FCU's service facilities (that is, there is no "reasonable geographic proximity" test)

#### **For a multiple group common bond federal credit union proposing to add a select group:**

NCUA will evaluate:

If the group is within a "reasonable geographic proximity" of one of the credit union's service facilities (there is no specific mileage test)

If the group could form its own credit (with the presumption that any group with primary potential members not exceeding 2,999 people could not); groups of 3,000 or more potential members are subject to greater scrutiny

The economic advisability of approving the group addition

NCUA *will not* evaluate:

If there is any relationship between the common bond of the group and of the existing field of membership of the applicant federal credit union

#### **For a community federal credit union proposing to expand:**

NCUA will evaluate:

If the proposed geographic area's boundaries are clearly defined

If the area is a well-defined local community, neighborhood or rural district

## **Federal Credit Unions Serving Underserved Areas**

### **"Low Income Status" Designation for Federal Credit Unions**

Chapter 3 of NCUA's field of membership manual and Section 701.34 of NCUA's regulations cover how a credit union can obtain a low-income designation. A low-income credit union is defined as one where a majority of its members either earn less than 80% of the average for all wage earners as established by the U.S. Bureau of Labor Statistics, or whose annual household income falls at or below 80% of the median household income for the nation. The term "low-income" also includes members who are full-time or part-time students at the high school, vocational school or college levels.

Credit unions with the low-income designation (except student credit unions) are offered greater flexibility in the way they do business. With a low-income designation a credit union can:

- a) Accept non-member deposits insured by the NCUSIF;
- b) Is exempt from the aggregate loan limit on business;
- c) Offer secondary capital accounts to strengthen their capital base;
- d) Qualify to participate in special funding programs such as the Community Development Revolving Loan Program for Credit Unions, operated by the NCUA (which, provides both loans and technical assistance to low-income credit unions (Section 705 of NCUA's regulations);

- e) Expand membership to other affiliated with the community, such as people who perform volunteer services and participate in associations located in the community.

### **Authority for Multiple Group Federal Credit Unions to serve Underserved Communities**

A multiple group federal credit union may serve members residing in an underserved area provide that federal credit union establishes and maintains a facility in the area. An underserved area is defined as a “local community, neighborhood, or rural district that meets the definition of an investment area under section 12 USC 4702 (16) and is underserved by other depository institutions. CURE keeps a list of underserved counties.

A credit union must also demonstrate that there are “significant unmet needs” for loans or other financial services in the proposed area. To determine if the area is in fact underserved by other depository institutions, NCUA developed a “concentration of facilities ratio” (“COF ratio”) that the agency uses to determine whether a proposed area is underserved by other depository institutions. Credit unions may also use the CFPB’s designations of underserved county or a metric chosen by the credit union as long it is based on NCUA data or other Federal banking data.

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