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National Association of Federally-Insured Credit Unions

May 30, 2023

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: RIN 3133-AF46. Chartering and Field of Membership

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to you regarding the chartering and field of membership (FOM) proposed rule. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 135 million consumers with personal and small business financial services products. The National Credit Union Administration's (NCUA) proposed changes to 12 CFR Appendix B to Part 701 – Chartering and Field of Membership Manual (Manual) would allow federal credit unions (FCUs) to better serve decedents' immediate family and household members, improve access to credit union services for remote workers and those in underserved areas, and streamline certain confusing and burdensome portions of the FCU chartering and conversion processes. NAFCU supports the principles underlying the NCUA's proposed changes to the Manual but encourages the NCUA to adopt a final rule that would further improve Americans' access to credit union services.

NAFCU encourages the NCUA to maintain the Manual's standalone secondary member groups for surviving spouses, to recognize the special contributions of those closest to our nation's armed forces veterans, and, at a minimum, to extend its proposed six-month secondary membership eligibility timeframe for decedents' immediate family and household members to 24 months. Additionally, the NCUA should expand its proposed fifth community charter affinity group to permit community charter FCUs to also serve individuals who remotely attend school and religious services provided by legal entities within their respective FOMs, and to support legislative changes to the Federal Credit Union Act (FCU Act) that would permit all FCUs to add underserved areas to their FOMs.

General Comments

The stunningly fast failures of several enormous, highly-concentrated, for-profit banks have recently shown, once again, that credit unions are plainly Americans' best choice for financial services and are as important to their members' financial health today as they ever have been. While it is disturbing that dozens of for-profit bank branches can permanently shutter over a weekend during a failure, thriving for-profit megabanks choose to close many more branches in

underserved areas each year. Because credit unions are owned by and operated exclusively for the benefit of their membership and because they are subject to such robust safety and soundness standards, credit unions are not only more physically connected to the communities they serve but they can fairly serve their members in ways that for-profit banks and other financial service companies simply cannot or will not. As the NCUA takes this opportunity to improve its Manual, NAFCU strongly encourages the NCUA to embrace its principles-based philosophy and avoid unnecessarily limiting any person's access to credit union services.

Secondary Membership Eligibility

Surviving Immediate Family and Household Members

In addition to the single common bond, multiple common bond, or community FOM defined in an FCU's charter, an FCU may also serve a number of persons who have a close relationship to that FOM. Among these "Other Persons Eligible for Credit Union Membership" (or secondary members) described throughout Chapter 2 of the Manual are FCU members' immediate family and household members and the spouses of persons who died while within an FCU's FOM. As the NCUA recognizes, an FCU's authority to serve these secondary members is a natural extension of the FCU's mission to serve its FOM. Yet, while many parts of our society have evolved to recognize a diversity of important personal relationships, the subtle differences in the Manual's descriptions of these two secondary member groups increasingly have a disparate impact on how FCUs may serve many of those who were closest to their deceased members and others who died while within their FOMs.

NAFCU has strongly encouraged the NCUA to look for ways to improve all Americans' access to credit union services and generally supports the NCUA amending its secondary member eligibility regulations to expand access to credit union services. The NCUA's proposal to permit FCUs to serve "[m]embers of the immediate family or household, including those of a member or person eligible for membership who died no longer than 6 months prior to the date of the application for credit union membership" is largely a step in the right direction. However, this part of the NCUA's proposal errs in two significant aspects.

First, by eliminating the Manual's standalone secondary member groups for surviving spouses, the NCUA's proposal would unnecessarily minimize FCUs' existing authority to serve – at any time – the spouses of persons who died while within their FOMs. In this narrow instance, the NCUA's regulations can and should evolve to reflect broader societal changes. But that maturation process does not require and should not include the NCUA sacrificing FCUs' existing authority to serve any person. NAFCU implores the NCUA to maintain the Manual's existing standalone secondary member groups for surviving spouses.

Second, though the NCUA's proposal may better enable FCUs to serve more members of more decedents' immediate families and households, the NCUA's proposed six-month secondary

member eligibility timeframe would dramatically undermine its own potential. The NCUA's proposed six-month timeframe is arbitrarily low and unrealistically at odds with the realities facing many who lose an immediate family or household member. Beyond the obvious emotional challenges many face immediately following the death of a family or household member, few, if any, estate administration processes are quick.

Some estates with hard-to-value and hard-to-sell property, like farms and other rural properties commonly held by credit union members, often take more than a year to settle. Complex and high-value estates that cannot be settled until their federal tax returns are accepted the following year almost always stretch well beyond six months and are often not settled for more than a year. Even many comparatively simple and modest estates cannot be settled for more than a year due to various health departments' and insurance companies' long processing times.

Until an estate is settled, it is rarely clear how an FCU may best serve a decedent's surviving immediate family and household members. Given the wide variety of emotional and procedural challenges decedents' surviving family and household members face during the estate administration process, the NCUA should not establish a secondary member eligibility timeframe that so obviously risks depriving so many of the opportunity to join an FCU that can help them now and for the rest of their lives.

Ideally, the NCUA would amend the Manual to provide decedents' surviving immediate family and household members parity with those in the Manual's existing standalone secondary member groups for surviving spouses. This would ensure that an FCUs could serve a decedent's surviving immediate family and household members even if the decedent's estate could not be settled quickly.

If, however, the NCUA determines it must limit these persons' access to credit union services, NAFCU strongly encourages the NCUA to establish a secondary member eligibility timeframe that is not shorter than 24 months to ensure that at least most decedents' surviving immediate family and household members an adequate opportunity to settle a decedent's estate and to evaluate the benefits of joining an FCU.

Honorably Discharged Veterans and Their Immediate Family and Household Members

Chapter 2 of the Manual also provides that an FCU may serve "[h]onorably discharged veterans who served in any of the Armed Services of the United States in this charter." As the NCUA updates the Manual to better reflect the important roles that immediate family and household members have in many of our lives, NAFCU encourages the NCUA to separately recognize the unique and tremendous daily sacrifices made by those closest to those who have served in our nation's armed forces. While armed forces veterans may most obviously shoulder the various burdens of their service to our nation, many veterans' immediate family and household members privately help veterans both bear those burdens and lead exceptional civilian lives. Therefore,

NAFCU encourages the NCUA to amend the Manual's existing secondary member groups for honorably discharged veterans to include both honorably discharged veterans and members of their immediate family or household.

Affinity Groups

Under the Manual's V.A.1, a community charter and a rural district may be based on one or more of the following four affinity groups: persons who live, worship in, attend school in, and/or work in the FCU's proposed community. In an effort to help FCUs serve remote workers with ties to their communities and rural districts, the NCUA's proposal would add a fifth affinity group: paid employees of a legal entity headquartered in an FCU's community or rural district.

The vast majority of both blue-collar and white-collar American workers worked on-site prior to the COVID-19 pandemic. During the pandemic, many businesses leveraged technological advancements developed over the last 20 years to transition tens of millions of U.S. employees to hybrid and remote work postures. At the same time, more Americans than ever also opted to attend school and worship remotely. As we move beyond the pandemic, some businesses are returning to or intend to return to an on-site posture, and some schools and houses of worship are focusing less on remote attendees. However, many Americans' pandemic experiences fundamentally changed the ways they prefer to work, attend school, and worship.

As expressed above, NAFCU supports the NCUA's regulations thoughtfully maturing in ways that expand access to credit union services. Therefore, NAFCU supports the NCUA's proposed addition of a fifth affinity group but encourages the NCUA to further expand access to credit union services by simultaneously recognizing the often equally close community ties of remote students and remote worshippers.

Underserved Areas

As the NCUA recognizes in the proposed rule, expanding access to credit union services allows more Americans to build wealth and, in turn, further strengthen their communities. While that tenet holds true for all communities, expanding access to credit union services in underserved communities is acutely impactful. The 1920 U.S. Census counted just over 106 million American residents.¹ In 1921, as many as 30,456 commercial banks operated in the United States – an all-time high.² The 2020 U.S. Census reported that the number of American residents had more than tripled to roughly 330.5 million. Over the intervening century, the number of commercial banks had fallen by more than 80 percent to fewer than 4,500.

While there are now roughly 4,900 credit unions that did not exist in 1921, the century-long trend of for-profit banks consolidating is strengthening. And though an FCU neighboring an

¹ <https://www.census.gov/data/tables/time-series/dec/popchange-data-text.html>

² <https://www.stlouisfed.org/on-the-economy/2021/december/steady-decline-number-us-banks>

underserved area may want and be prepared to serve the underserved area, under the FCU Act's current exception for underserved areas,³ the NCUA may permit only multiple common bond FCUs⁴ to add underserved areas to their FOM.

NAFCU supports the NCUA's proposed changes to the Manual regarding underserved areas, particularly the proposed elimination of prescriptive requirements related to FCUs' applications to serve underserved areas. Relatedly, the NCUA was right to not propose to define the term "well-defined" as it is used in the Manual, and NAFCU encourages the NCUA to abstain from attempting to define the term in the future. More broadly, as the NCUA continues to explore ways to enhance low- and moderate-income communities' access to credit union services, NAFCU encourages the NCUA to support legislation, like the Expanding Financial Access for Underserved Communities Act introduced by Representative Maxine Waters in the last Congress, that would enable the NCUA to permit all FCUs to add underserved areas to their FOMs.

Community Charter Conversions and Expansions

NAFCU generally supports the NCUA's proposed changes to the Manual regarding community charter applications and conversions. By eliminating certain unnecessarily prescriptive business and marketing plan requirements, the NCUA will further foster new FCU community charter applications and conversions and will better support community charter FCUs looking to expand to serve more members. However, NAFCU does not support the NCUA's proposal to make a new standardized community charter request application mandatory.

The proposed standardized application would likely be helpful to some applicants and should be included in the Manual. However, the standardized application may not be appropriate for all applicants, and applicants should continue to have the option to submit a free-form narrative application to the NCUA if that is in their best interests. Therefore, NAFCU requests that the NCUA modify this portion of the rule to make the standardized community charter request application available only as an option for prospective applicants.

Conclusion

NAFCU supports the principles underlying NCUA's proposed changes to the Manual but encourages the NCUA to adopt a more principles-based Chartering and Field of Membership final rule that preserves FCUs' existing broad authority to serve surviving spouses, provides decedents' and honorably discharged veterans' immediate families and households an adequate opportunity to evaluate the benefits of joining an FCU, and recognizes the deep connections many individuals have to the employers, schools, and religious centers they remotely attend. NAFCU also encourages the NCUA to support legislative changes to the FCU Act that would permit

³ 12 U.S.C. § 1759(c)(2).

⁴ 12 U.S.C. § 1759(b)(2).

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all FCUs to add underserved areas to their FOMs. If you have any questions or concerns, please do not hesitate to contact me at dbaker@nafcu.org or (703) 842-2803.

Sincerely,

A handwritten signature in black ink that reads "Dale R. Baker". The signature is written in a cursive style with a large, stylized initial "D".

Dale R. Baker

Regulatory Affairs Counsel