



# Final Regulation

## National Credit Union Administration (NCUA): Field of Membership

### 16-EF-09

#### NAFCU would like to highlight the following:

- The National Credit Union Administration (NCUA) has finalized a rule that will modernize its chartering and field of membership regulations. The final rule makes substantive changes to all three charter types, including the following amendments:
  - Community Common Bond
    - Remove the “Core Area” Service requirement in favor of considering the portion of the area that the credit union seeks to serve when determining if the area exceeds the 2.5 million population limit, as opposed to the current practice of considering the whole population.
    - Allow Combined Statistical Areas (CSAs) designated by the Office of Management and Budget (OMB) to count as a “well-defined, local community” (WDLC).
    - Increase the population limit for a Rural District from 250,000 to 1 million persons.
  - Multiple Common Bond
    - Permit the addition of persons who work regularly for an entity that is under contract to the sponsor of the Select Employee Group (SEG) listed in a multiple common bond charter, provided there is a “strong dependency relationship” with that sponsor.
    - Allow a credit union’s common bond to include honorably discharged veterans of any branch of the United States Armed Forces listed in its charter, thereby continuing their eligibility for credit union membership beyond active duty.
  - Trade, Industry, or Profession (TIP) Charters
    - Expand the definition of TIP to include employees of entities that have a strong dependency relationship on, and whose employees work directly with employees of, other entities within the same industry.

**Effective Date: February 6, 2017**

## Summary

The National Credit Union Administration (NCUA) has finalized a rule that seeks to modernize its chartering and field of membership regulations. The following is a summary of the final rule's substantive changes:

### *Community Common Bond*

- Removes the “Core Area” Service requirement in favor of considering the portion of the area that the credit union seeks to serve when determining if the area exceeds the 2.5 million population limit, as opposed to the current practice of considering the whole population.
- Designates a Combined Statistical Area (CSAs) as a “presumptive community” to qualify as a WDLC.
  - CSAs would still be subject to the 2.5 million population limit.
- Permits addition of adjacent areas to a community consisting of a Single Political Jurisdiction, Core Based Statistical Area (CBSA), CSA, or Rural District by submitting a narrative, based on subjective evidence, that the residents interact or share common interests.
- Increases the population limit for a rural district from 250,000 to 1 million persons.
- Amends the definition of Underserved Areas to exclude non-depository institutions and non-community credit unions from the concentration of facilities ratio, as well as explains that NCUA, when classifying an area as “underserved,” would consider two alternatives to the concentration of facilities ratio:
  1. The Consumer Financial Protection Bureau’s (CFPB’s) list of “underserved counties,” *or*
  2. A metric of the credit union’s own choosing based on “data of the Board and the Federal banking agencies.”

### *Multiple Common Bond Charters*

- Permits the addition of persons who work regularly for an entity that is under contract to the sponsor of the Select Employee Group (SEG) listed in its charter, provided there is a “strong dependency relationship” with that sponsor.
- Permits inclusion of employees of an office/industrial park’s tenants, so long as:
  1. Each tenant within the group has fewer than 3,000 employees, and
  2. The only employees who work regularly at the park during their employer’s tenancy are eligible for FCU membership.
- Streamlines application process for demonstrating Stand-Alone Feasibility so that groups with between 3,000-4,999 members would need to submit a written statement indicating that conditions exist that result in the group being unable to form their own credit union.
- Allows a credit union’s common bond to include honorably discharged veterans of any branch of the United States Armed Forces listed in its charter, thereby continuing their eligibility for credit union membership beyond active duty.

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

- Expands the definition of TIP to include employees of entities that have a strong dependency relationship on, and whose employees work directly with employees of, other entities within the same industry. A credit union would need to demonstrate that an entity is:
  1. “Strongly dependent” on the others within a TIP, *and*
  2. Shares a narrow commonality.

A copy of the final rule can be found [here](#).

This Final Regulation includes this brief summary, background, and section-by-section analysis of the rule. We urge you to read the materials carefully. Should you have any questions or require additional information, please contact Michael Emancipator, Senior Regulatory Affairs Counsel, at (703) 842-2249 or [memancipator@nafcu.org](mailto:memancipator@nafcu.org).

### **Background**

As the NCUA Board has noted numerous times, our industry’s dual chartering system works best when the state and federal charters keep pace with each other. Several states, however, have been much more progressive in modernizing their FOM rules to recognize today’s dynamic and ubiquitous marketplace. As a result, the industry has seen multiple credit unions convert to state charters because of their inability to grow under the federal charter.

In January 2015, the NCUA Board announced its commitment to undertaking a comprehensive review of its FOM rules, and pledged to streamline procedural and regulatory hurdles that unnecessarily burden credit union growth in today’s financial services landscape. To facilitate this initiative, NCUA established an internal agency working group to examine FOM issues and to develop suggestions for strengthening the federal charter. At the same time, NCUA actively solicited industry feedback as it developed a rule to modernizing its FOM regulations for the first time in over fifteen years. NAFCU and our members recommended several provisions that are found in this final rule.

### **Section-by-Section Analysis**

#### ***Community Common Bond***

The *Federal Credit Union Act* (FCU Act) limits membership in a community credit union to “[p]ersons or organizations within a well-defined local community, neighborhood or rural district” and directs NCUA to establish a definition for “well-defined local community” (WDLC) and “rural district.” *See* 12 U.S.C. § 1759. The FCU Act does not impose any maximum limitation on population or geographic size.

To qualify as a WDLC or as a rural district, NCUA requires a proposed area to have “specific geographic boundaries,” and for residents within those boundaries to interact or share common interests that signify a cohesive community. Currently, there are two “presumptive community” options that by definition meet the statutory criteria of a WDLC.

The first presumptive community is a “Single Political Jurisdiction,” (SPJ) or any individual

portion thereof, regardless of population. The second is a single Core Based Statistical Area (CBSA) or a Metropolitan Division within a CBSA, subject in either case to a 2.5 million population limit. Under either of these presumptive community options, a FCU must be able to serve the proposed community or rural district.

#### “Core Area” Service Requirement

NCUA currently requires a credit union applying to serve a community consisting of a portion of a CBSA to include the CBSA’s “core area,” defined as the most populated county or named municipality in the CBSA, within the portion to be served. Under the final rule, FCUs will no longer be required to serve the “core area” when seeking to serve a portion of a CBSA.

#### CBSA Population Limit as Applied to a Well-Defined Portion of a CBSA

Currently, NCUA permits a portion of a CBSA to qualify as a WDLC so long as the population of the entire CBSA does not exceed the 2.5 million population limit, regardless of whether the FCU desires to serve the entire CBSA. To add flexibility, the final rule only applies the population limit to the portion of the CBSA that the FCU intends to serve. NCUA provides an illustrative example, explaining that a smaller, well-defined portion of a CBSA with a population of 1.5 million will not be denied for consideration solely because the population of the entire CBSA exceeds 2.5 million.

#### “Combined Statistical Areas” as a Well-Defined Local Community

In addition to the two presumptive communities described above, SPJ and CBSA, the final rule adds “Combined Statistical Areas” (CSA) as a third presumptive community. FCUs will now be able to apply to serve CSA, as designated by the Office of Management and Budget, subject to a population cap of 2.5 million.

#### Addition of an Area Adjacent to a CBSA, CSA, or SPJ

The current rule does not provide FCUs the option to submit a narrative to demonstrate common interest or interaction among residents of a proposed community. Reversing this prohibition, the final rule will permit a FCU to use a narrative approach when seeking permission to add areas adjacent to its SPJ, CBSA, or CSA.

When seeking to add such adjacent areas, the FCU would be required to submit a written narrative which demonstrates interaction or common interests among residents of the proposed community as a whole. Additionally, the narrative would have to show the FCU’s ability and commitment to serve the entire expanded community through its business and marketing plan. Of note, the expanded community would be subject to the proposed population limits for community charters (2.5 million) and rural district charters (1 million). The Office of Consumer Financial Protection and Access (OCFPA) will separately issue guidance on the criteria that a narrative should address to support the addition of an adjacent area.

NCUA will base decisions on a number of factors with respect to the proposed service area in its

entirety, including:

- Economic Hub
- Population Centers
- Isolated Areas
- Quasi-Governmental Agencies
- Government Designations
- Shared Public Services/Facilities
- Colleges and Universities

### Rural District Definition

Among other things, the final rule simplifies treatment of the population cap in defining “rural district.” Under the current version of the rule, the population cap is limited to 250,000 or 3 percent of the population of the state in which the majority of the district is located.

The final rule revises the definition of a “rural district” as meeting four criteria:

1. A district that has well-defined, contiguous geographic boundaries;
2. The total population of the district does not exceed 1 million;
3. The district meets one of two other population requirements:
  - a. It does not have a population density in excess of 100 people per square mile; *or*
  - b. More than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by either the Consumer Financial Protection Bureau or the U.S. Census Bureau; *and*
4. The boundaries of the well-defined rural district do not exceed the outer boundaries of the states that are immediately contiguous to the state in which the FCU maintains its headquarters.

### ***Multiple Common Bond***

The final rule makes the following changes to multiple common bond charters:

#### SEG Contractors

The current definition of a *single* occupational common bond includes individuals who regularly work for an entity that is under contract to the sponsor of the SEG listed in its charter, so long as the contractor has a “strong dependency relationship” with that sponsor. This provision currently does not extend to *multiple* common bond charters.

The final rule, acknowledging that there is no distinction between a single and multiple common bond credit unions in this regard, would to extend to *multiple* occupational common bond credit unions the ability to add individuals who regularly work for an entity that is under contract to the sponsor of the SEG listed in its charter, so long as the contractor has a “strong dependency relationship” with that sponsor. The final rule adds clarity to this definition, explaining that a “strong dependency relationship” between a SEG sponsor and the sponsor’s contractor means “both rely on each other as measured by a pattern of regularly doing business with each other.” NCUA indicated it will release additional guidance on this definition in the near future.

### Office/Industrial Park Tenants

The proposed rule would have permitted a multiple common bond credit union to combine in a single SEG all the employees of a park's business and retail tenants (e.g., within a shopping mall, an office building or an office complex), provided each tenant had fewer than 3,000 employees working regularly at a facility within the park – effectively a SEG consisting of park tenants themselves rather than their employees.

Upon further review, NCUA recognized that the rule as it currently exists already permits a park's tenants, in each one's capacity as an employer, to form a multiple occupational common bond credit union combining each one's individual SEG. Accordingly, NCUA is not finalizing the proposed rule, but is merely clarifying the existing provision, subject to two conditions:

1. Each tenant within the 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 FCU membership.

In addition, any new tenants to the industrial park would be eligible for membership so long as they meet those two conditions.

### Streamlined Determination of Stand-Alone Feasibility

As stated above, the NCUA Board is required by the FCU Act to determine the stand-alone feasibility of groups that seek to be added to the field of membership of an existing multiple common bond credit union. Generally, this requires an applicant to show how the proposed group does not have the ability to form their own credit union. The final rule amends the application process for multiple common bond expansions according a group's size, adopting a three-tiered approach, as follows:

- **Groups of fewer than 3,000 members**
  - Subject to the existing application process, including:
    - A written request using the Application for Field of Membership (NCUA 4015 EZ);
    - A letter from the group requesting credit union service and indicating the desire to be added to the FCU's field of membership;
    - The number of persons included in the group to be added; and
    - The group's proximity to the credit union's nearest service facility.
  - Applicants do not need to demonstrate these groups' lack of ability to form their own credit union.
- **Groups between 3,000 and 4,999 members:**
  - The final rule now permits FCUs to submit a written statement indicating conditions exist, such as lack of available subsidies, disinterest among the group's members, and an overall lack of sufficient resources, as sufficient documentation the group cannot form its own credit union.

- The Board no longer requires an overlap analysis of a group between 3,000 and 4,999 members.
- **Groups with more than 5,000 members:**
  - Subject to the existing standard application process, requiring a group to fully describe its inability to establish a new single common bond credit union.

#### Other Persons Eligible for Credit Union Membership

NCUA recognizes a number of affinity groups that have been entitled to credit union membership due to their relationship to a common bond group. Examples of affinity groups include the immediate family of a primary credit union member, spouses of deceased credit union members, current credit union employees, and others.

In recognition of the similarly close relationship that discharged military personal share to their active duty branch of service, the final rule permits a FCU to include within its common bond the honorably discharged veterans of any branch of the United States Armed Forces, listed in its charter. In effect, this extends a servicemember's eligibility for credit union membership beyond their active duty service.

#### Underserved Areas

The FCU Act authorizes the NCUA Board to allow multiple common bond credit unions to serve members residing in an "underserved area," provided the FCU establishes and maintains a facility in the area. For an area to be "underserved," it must qualify: (1) as a WDLC, neighborhood or rural district; (2) as an "investment area" under the *Community Development Banking and Financial Institutions Act* (CDFI Act); and (3) as "underserved" by other depository institutions "based on data of the Board and the Federal banking agencies." The FCU Act prescribes no specific test or criteria to assess "underservice."

Under current FOM rules, NCUA calculates an area's concentration of facilities ratio (CFR) to determine whether an area is underserved by financial institutions. Currently, the calculation may include non-depository institutions, or non-community credit unions that, by definition or in fact, cannot actually serve the members of a community, despite having a branch in the area. As a result, the current test generates too many false-negatives, possibly finding an area to be adequately served, when in fact, it is not.

The final rule remedies this problem by excluding non-depository institutions and non-community credit unions from its calculation to determine whether an area is underserved.

As an alternative to the CFR test, the final rule classifies an area as underserved if it is designated as an "underserved county" by the CFPB, *or* a FCU can use a metric of its own choosing to submit as evidence of underservice in a proposed area, provided the metric is based on "data of the Board and the Federal banking agencies."

### ***Trade, Industry or Profession (TIP) as a Single Common Bond***

NCUA's current Chartering and FOM Manual requires that TIP charters have a single "common bond relationship...that demonstrates a narrow commonality of interests within a specific trade, industry, or profession," and there must be a close nexus among the entities within the group. *See* Appendix B, Part 701. The commonality of interest and close nexus requirements prevent a TIP from including third-party vendors and other suppliers and contractors.

NCUA's final rule clarifies its definition of a TIP to include employees of vendors, suppliers, and contractors that have a "strong dependency" relationship on and work directly with other entities within the same industry. The existence of a "strong dependency" relationship hinges on the likelihood of a significant economic impact, on either or both parties, if one party were unable to continue operations without doing business with the other party. The final rule indicates that OCFPA will issue additional guidance to assist a FCU's determination of "strong dependency."

### ***Technical Updates***

The final rule corrects statutory and regulatory citations and cross-references. It also updates the appendices to the Chartering and Field of Membership Manual to reflect current agency practices, updated references to NCUA offices, and the new name of the Office of Consumer Financial Protection and Access.

### ***Proposed Provisions NOT included in the Final Rule***

Although the Board finalized many of the provisions from the proposed rule, it elected not to finalize two provisions at this time.

#### Congressional Districts as Well-Defined Local Communities

First, the Board decided not to finalize the proposed provision that would have defined a SPJ to include congressional districts, qualifying each district as a presumptive WDLC without regard to population. Although not prohibited by statute, the Board deferred action on this proposal at this time, consistent with an incremental approach to introducing and permitting credit unions to acclimate to other significant community common bond enhancements adopted in the final rule.

#### "Reasonable Proximity" through Online Access to Services.

Additionally, the final rule did not adopt the proposed definition that would clarify "service facility." Currently, if a multiple common bond wants to expand access to a new associational group, the credit union must demonstrate that the proposed group is within "reasonable proximity" to a FCU "service facility." The proposed rule would have refined the term "service facility" to include transactional websites and "online internet channels" capable of accepting deposits for the members' accounts, accepting loan applications, or disbursing loan proceeds to the member.



## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Community Common Bond</b>			
<b>“Core Area” Service Requirement</b>	When a credit union applies to serve a community consisting of a portion of a core-based statistical area as defined by the Office of Management and Budget, NCUA requires that a portion must include the core-based statistical area’s “core area,” which NCUA defines as the most populated county or named municipality in the core-based statistical area’s title.	Under the proposal, federal credit unions will be able to apply to convert to a community charter or expand an existing community charter without having to serve the core area if electing to serve a portion of a Core Based Statistical Area. This will allow a federal credit union to grow at an appropriate scale consistent with its ability to serve a larger area. NCUA will continue to review the credit union’s ability to serve the requested area through its business and marketing plan.	<b>Finalized as proposed.</b> Federal credit unions will now be able to apply to convert to a community charter or expand an existing community charter without being required to serve the core area if electing to serve a portion of a core-based statistical area.
<b>Population Limit as Applied to a Well-Defined Portion of a Core-Based Statistical Area</b>	NCUA currently permits a portion of a Core Based Statistical Area to qualify as a well-defined local community, provided the population of the Core Based Statistical Area as a whole does not exceed the 2.5 million population limitation.	Under the proposal, NCUA’s population limit of 2.5 million people will apply to a Core Based Statistical Area or any well-defined portion thereof. For example, a smaller, well-defined portion of a statistical area with a population of 1.5 million will not be denied for consideration simply because the population of the larger encompassing statistical area exceeds the population limit of 2.5 million.	<b>Finalized as proposed.</b> NCUA’s population limit of 2.5 million people will now apply to any well-defined portion of a core-based statistical area regardless of whole area’s population.

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Combined Statistical Areas</b>	Federal credit unions are limited to serving a statistical area no larger than a metropolitan statistical area, or in the case of a metropolitan statistical area with metropolitan division, a metropolitan division—and subject to a population cap of 2.5 million.	Under the proposal, a federal credit union will be able to apply to serve combined statistical areas, as designated by the Office of Management and Budget.	<b>Finalized as proposed.</b> Federal credit unions will now be able to apply to serve a Combined Statistical Area, as designated by the Office of Management and Budget, subject to a population cap of 2.5 million.
<b>Addition of an Area Adjacent to a Core-Based Statistical Area</b>	NCUA uses an objective core-based requirement to demonstrate an area is a well-defined local community. NCUA presumes that areas recognized as either a single political jurisdiction (such as a city or county), or an area consisting of multiple political jurisdictions with a Core Based Statistical Area, as defined by the Office of Management and Budget, (such as metropolitan statistical areas, metropolitan divisions, or a portion thereof—all subject to a population limit of 2.5 million persons) are local communities	Under the proposal, a federal credit union could apply to serve an outside area contiguous to its existing Core Based Statistical Area or single political jurisdiction. A federal credit union must provide a written narrative to demonstrate interaction or common interests of the proposed expanded community as a whole, when seeking to add an area adjacent to a Core Based Statistical Area. Note: the proposal does suggest the larger the adjacent area is the more challenging it may be to demonstrate it is a well-defined local community.	<b>Finalized as proposed.</b> Federal credit unions may now apply to serve an area adjacent to its existing core-based statistical area or single political jurisdiction, or may apply to convert to a community charter that includes an area adjacent to a core-based statistical area. A federal credit union must provide a written narrative to demonstrate interaction or common interests among residents of the proposed expanded community as a whole, when seeking to add an adjacent area to a core-based statistical area.
<b>Individual Congressional District as a Well-Defined Local Community</b>	While NCUA has historically acknowledged a Congressional district has well-defined geographic boundaries, to date, it has nonetheless not permitted a community charter to be based on one because the boundaries are subject to frequent change.	Under the proposal, NCUA would recognize an individual Congressional district as a well-defined local community and permit a federal credit union to serve an area consisting of the geographic boundaries of an individual Congressional district.	NCUA elected to defer action on this proposal.

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Rural District Defined</b>			
<b>Population Limits</b>	The current chartering and field of membership policies limit the total population of a rural district to the greater of either: a) 250,000 people, or b) 3 percent of the population of the state in which the majority of the district's population is located.	Under the proposal, the rural district population limit is increased to 1 million - regardless of the state in which the majority of the district's population is located.	<b><u>Finalized as proposed.</u></b>
<b>Multi-State Expansion Limit</b>	NCUA currently permits a rural district to extend beyond a state's boundaries (subject to the population limit and density/census tract thresholds).	Under the proposal, NCUA continues to permit a federal credit union serving a rural district to cross the boundaries of other states. But, the agency will limit any multi-state expansion to only those states with borders immediately bordering the state containing the federal credit union's headquarters or main office.	<b><u>Finalized as proposed.</u></b>
<b>Underserved Areas</b>			
<b>Exclusion of Non-Depository Institutions and Non-Community Credit Unions when Calculating the Concentration of Facilities Ratio</b>	Under the current Chartering and Field of Membership Manual, when a credit union seeks to serve an Underserved Area, NCUA calculates a proposed area's concentration of facilities ratio to meet a statutory requirement that a proposed area be "underserved by other depository institutions." Data obtained by NCUA to perform this calculation may include non-depository institutions or non-community credit unions that, by definition or in fact, cannot actually serve the proposed area, despite having a branch there.	Under the proposal, NCUA will recalculate the concentration of facilities ratio analysis, excluding any non-depository institutions or non-community credit unions or both from the concentration of facilities ratio. However, a second analysis under this scenario would still include other multiple common bond credit unions already serving the underserved area as a community.	<b><u>Finalized as proposed.</u></b>

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Alternatives to Identify Areas “Underserved by Other Depository Institutions”</b>	<p>As mentioned above, NCUA currently uses a concentration of facilities test to meet its statutory obligation to determine if a requested area is underserved by other depository institutions. NCUA acknowledges there may be alternative methods to determine that an area is underserved by other depository institutions.</p>	<p>Under the proposal, NCUA will consider alternative methods a federal credit union can rely on to determine whether a proposed area is underserved by other financial institutions, provided the analysis relies on NCUA data or another federal banking agency’s data.</p>	<p><b>Finalized as proposed.</b> NCUA will accept a CFPB-designated “underserved county” as an underserved area and will consider alternative methods a federal credit union can rely on to determine whether a proposed area is underserved by other financial institutions, provided the analysis relies on NCUA or another federal banking agency’s data.</p>
<b>Multiple Common Bond</b>			
<b>Federal Credit Union’s “Reasonable Proximity” through Members’ Online Access to Services</b>	<p>The Federal Credit Union Act requires a multiple common bond federal credit union to have a service facility within reasonable proximity to any group added to its field of membership. Current regulations to implement this statutory requirement permit a service facility to also include a credit union-owned ATM or credit union-owned electronic facility that meets a minimum level of service. To date, NCUA has not included a credit union’s internet website as a service facility.</p>	<p>Under the proposal, NCUA would modify the definition of “service facility” for multiple common bond federal credit unions to include a transactional website or mobile platform that permits—at a minimum—accepting shares for members’ accounts, accepting loan applications or dispersing loans. Therefore, when a multiple common bond federal credit union applies to add a group to its field of membership, it would be able to meet the statutory requirement to have a service facility within reasonable proximity to the group through a transactional website or other electronic access that meets these minimum levels of services as determined by NCUA. Note that this would not apply for purposes of establishing and maintaining a service facility in an underserved area.</p>	<p>NCUA elected to defer action on this proposal.</p>

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Inclusion of Select Employee Group Contractors in a Multiple Common Bond</b>	<p>NCUA presently includes within the definition of a single occupational common bond the people who work regularly for an entity that is under contract to the sponsor of the select employee group listed in its charter, provided the contractor has a strong dependency relationship with that sponsor. This definition relies on the presence of a strong dependency relationship between the select employee group sponsor and its contractor to establish the common bond of occupation the Federal Credit Union Act requires for a group to be included in either a single or a multiple common-bond credit union.</p>	<p>Under the proposal, for purposes of recognizing the occupational affinity between a select employee group sponsor's own employees and those of each sponsor's contractors, NCUA would not make a distinction between a single common bond credit union and a multiple common bond credit union. Therefore, NCUA proposes to extend to multiple occupational common bond credit unions the ability to 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, provided the contractor has a strong dependency relationship with the sponsor in each case.</p>	<p><b>Finalized as proposed.</b> Multiple common-bond federal credit unions will now have parity with single common-bond charters in being able to 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, provided the contractor and sponsor have a strong dependency relationship in each case.</p>
<b>Inclusion of Office or Industrial Park Tenants in a Multiple Common Bond</b>	<p>In the past, NCUA has recognized industrial parks as a special type of community charter, but had not extended this recognition to other types of fields of membership.</p>	<p>Under the proposal, NCUA will also permit a multiple common bond federal credit union to include in its field of membership, employees of an industrial park's tenants, such as retail tenants of a shopping mall, business tenants of an office building or complex. Inclusion of such office/industrial park group within a multiple common bond credit union would be subject to two conditions: 1) each tenant within the 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.</p>	<p><b>Clarified from proposal.</b> The final rule clarifies that park tenants, in each one's capacity as an employer, are eligible to be included within a multiple occupational common-bond credit union, subject to two conditions: 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 subject to the above conditions.</p>

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Streamlined Documentation Requirements for Stand-Alone Feasibility of Groups Greater than 3,000</b>	The <i>Federal Credit Union Act</i> provides flexibility for NCUA to determine whether a group in excess of 3,000 potential members could not feasibly or reasonably establish a new single common-bond federal credit union. Presently, NCUA provides a streamlined application process only for federal credit unions seeking to add a group with fewer than 3,000 potential members.	Under the proposal, in addition to retaining the existing streamlined processing for groups less than 3,000 potential members, the proposed rule offers an additional new and appropriate level of streamlined processing procedures for determining whether a group between 3,000 and 4,999 potential members would be unable to form its own single common bond credit union.	<b>Finalized as proposed.</b> NCUA will accept this streamlined documentation to meet its statutory requirement to determine whether a group can reasonably establish a new single common-bond credit union.
<b>Other Persons Eligible for Credit Union Membership</b>	Under its current chartering and field of-membership policies, a multiple common bond or single common bond federal credit union has the option of serving active duty or retired United States armed forces personnel, if listed as a group in the credit union's charter.	Under the proposal, and consistent with affinity relationships, NCUA will permit a federal credit union to include within its common bond the honorably discharged veterans of any branch of the United States armed forces listed in its charter, continuing eligibility for credit union membership beyond active duty for military personnel.	<b>Finalized as proposed.</b> Consistent with affinity relationships, federal credit unions may now include, within its common bond, the honorably discharged veterans of any branch of the United States Armed Forces listed in its charter. This continues eligibility of military personnel for credit union membership beyond active duty.
<b>TIP</b>			
<b>Inclusion of “Strong Dependency” Vendors and Suppliers in TIP Definition</b>	Under existing chartering and field-of-membership policies, NCUA recognizes a single occupational common bond between a select employee group sponsor’s own employees and those of its contractors, provided there is a strong dependency relationship between the sponsor and the contractor.	Under the proposal, NCUA will expand its definition of a TIP charter to include employees of entities that have a strong dependency relationship with (and whose employees work directly with employees of) other entities within the same industry. The proposal defines a strong dependency relationship as hinging on the likelihood of a significant economic impact on either or both parties if one were unable to continue in its operations without doing business with the other.	<b>Finalized as proposed.</b> Federal credit unions serving a TIP charter may now include employees of entities that have a strong dependency relationship with other entities within the same TIP.

## NAFCU Summary of Existing, Proposed, and Final FOM Rule

Rule Component	Existing Requirements	2015 Proposed Rule	2016 Final Rule
<b>Other Items</b>			
<b>Technical Updates</b>	N/A	<p>The proposed rule would correct statutory and regulatory citations and cross references. It would update the appendices to the Chartering and Field of Membership Manual to reflect current agency practices as well as update references to NCUA offices. Additionally, the proposed rule designates the NCUA Board Secretary as the point of contact for any appeals of charter decisions.</p>	<p>The final rule corrects statutory and regulatory citations and cross-references. It also updates the appendices to the Chartering and Field of Membership Manual to reflect current agency practices, updated references to NCUA offices, and the new name of the Office of Consumer Financial Protection and Access.</p>

*This document is intended for informational purposes only. It does not constitute legal advice. If such advice or a legal opinion is required, please consult with competent local counsel.*

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## NAFCU'S 2016 REGULATORY ALERTS

<b>Number</b>	<b>Topic</b>	<b>Date Issued</b>
16-EA-01	NCUA: Overhead Transfer Rate Methodology	2/10/2016
16-EA-02	NCUA: Operating Fee Schedule Methodology	2/10/2016
16-EA-03	NCUA: Partial Occupancy Proposal	4/26/2016
16-EA-04	NCUA: OMB Approval of Information Collection	5/2/2016
16-EA-05	NCUA: Incentive-Based Compensation	5/4/2016
16-EA-06	FFIEC: Consumer Compliance Rating System	6/3/2016
16-EA-07	CFPB: Arbitration	6/28/2016
16-EA-08	FHFA: Front-End Credit Risk Transfer	7/12/2016
16-EA-09	CFPB: Payday Lending	7/12/2016
16-EA-10	CFPB: Amendments to Regulation P	7/15/2016
16-EA-11	CFPB: Third-Party Debt Collection	8/18/2016
16-EA-12	CFPB: Consumer Complaint Database	8/22/2016
16-EA-13	CFPB: TRID "Fix"	8/25/2016
16-EA-14	CFPB: Amendments Relating to Disclosure of Records and Information	10/4/2016

## NAFCU'S 2016 FINAL REGULATIONS

<b>Number</b>	<b>Topic</b>	<b>Date Issued</b>
16-EF-01	NCUA: Share Insurance	1/4/2016
16-EF-02	FHFA: FHLB Membership Requirements	1/22/2016
16-EF-03	NCUA: Member Business Lending	3/1/2016
16-EF-04	NCUA: Bank Notes	4/8/2016
16-EF-05	CFPB: Operations in Rural Areas under TILA	4/12/2016
16-EF-06	DOL: Fiduciary Duty for Investment Advisors	5/5/2016
16-EF-07	FinCEN: Customer Due Diligence Requirement	5/12/2016
16-EF-08	DOL: Minimum Wage and Overtime Pay Exemptions	6/13/2016
16-EF-09	NCUA: FOM	11/2/2016