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National Association of Federally-Insured Credit Unions

February 9, 2021

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: Chartering and Field of Membership - Shared Facility Requirements (RIN: 3133-AF23)

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in support of the rule modernizing the definition of service facilities in the Chartering and Field of Membership Manual (Manual) proposed by the National Credit Union Administration (NCUA). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 123 million consumers with personal and small business financial service products. NAFCU and our members have long advocated for NCUA to modernize the Manual in recognition of the advent of technology and its impact on commerce and consumer behavior. The proposed rule would define “service facility” in a manner that provides clarity, consistency, and the appropriate recognition of technological advances and the current operation of shared branching. NAFCU urges the NCUA Board to approve the rule with some slight tweaks for clarity as described herein, and to further modernize the Manual by including online and mobile banking platforms in the definition of service facility in recognition of the role of these channels in modern consumer banking.

General Comments

As the economic effects of the pandemic continue to loom on the horizon and the credit union industry continues to suffer growing consolidation, credit unions need the tools and mechanism to reach new consumers who are not currently being served. NCUA has identified modernization of the chartering process and field of membership requirements as an important piece of its own Advancing Communities through Credit, Education, Stability and Support (ACCESS) Initiative for good reason – the current field of membership process is burdensome, difficult to navigate, and unnecessarily strict. Field of membership is an important part of what makes credit unions unique, but it should not be used as a stricture against healthy credit union growth and improving access to credit unions for underserved communities.

Without regulatory and legislative relief, NAFCU and our members are concerned that credit unions will be unnecessarily and unjustifiably obstructed in their ability to invest in appropriate technology and perform in the consumer finance sector, which is increasingly competitive and innovative. The federal charter must keep pace with changes in state laws, technology, and the

services and practices of a digital financial services industry. To that end, the NCUA must take every regulatory opportunity to streamline and simplify field of membership requirements to ensure the long-term health and survival of America's credit unions.

Proposed Definition of Service Facility

NAFCU strongly supports the proposed rule. The NCUA's assessment of the changed structure of shared branching is correct. Further, the technological improvements made in financial services significantly reduces the role of in-person tellers and has expanded access to products and services without regard to geographical locations. ATMs and shared facilities provide full access for members' every day needs, and it is therefore appropriate to recognize these facilities as such.

The alignment of the definition of service facility for both adding select groups and underserved areas simplifies and clarifies the requirements. From a technical perspective, the definition of a service facility regarding underserved areas, found in section III.F of the Manual, as amended, differs slightly from the text in the glossary and section IV.A.I. A reference to "a shared branch" remains in the initial series of facilities in the definition, in addition to the separate sentence addressing service facilities, which has been added to all definitions. It is not clear whether this separate reference bears any significance or is vestigial. Presuming it is the latter, it should be removed to create clarity and symmetry between all three statements of the definition.

Further, the NCUA should consider whether a restatement of the definition in three separate places in the Manual is advisable. As described in the background of the NCUA's proposed rule, the definition of "service facility" became bifurcated when separate rules addressing the addition of select groups and underserved areas adjusted the meaning of service facility at different points in time without consideration to the consistency of the phrase. As part of the purpose of this rule is to align these definitions, it might be best to simply refer readers to the definition of "service facility" in the glossary, rather than restate the definition multiple times throughout the Manual. This might discourage future proposed rules focused on only underserved areas or adding select groups from making changes to the definition in one context, only resulting in these definitions to accidentally come out of realignment.

Online and Mobile Banking

The Select Groups Context

The *Federal Credit Union Act* (FCU Act) states that when adding a select group to a multiple common bond credit union's field of membership, the credit union must be "within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union." In the past, the NCUA has interpreted this language to refer to close geographic proximity meaning that the group is within the service area, a 25-mile radius, of one of the credit union's service facilities. Because geographic proximity has historically been a reflection of the time, distance, and effort necessary to access the full-range of credit union products and services prior to the primacy of electronic and mobile banking, this interpretation ensured that credit union products and services were actually accessible to the communities within a credit union's field of membership at one time. However, the

development of technology has altered the relationship between geography and proximity significantly, and it is appropriate and necessary for the NCUA to reconsider its interpretation in light of that material fact.

NAFCU and our members have long maintained that the NCUA needs to either eliminate the service area requirement or alternatively revise the definition of service area to include "facilities that are accessible to groups within the FOM through online services." The NCUA should revise the definition of "service facility" to include an online internet channel or mobile application that otherwise meets the definitions of a service facility, meaning it is capable of accepting shares and loan applications, or disbursing loan proceeds.

The Underserved Areas Context

Unlike the select groups context, the FCU Act contains no explicit reference to proximity. It merely requires that a credit union establish and maintain a facility where credit union services are available within the local community of the population being served. Because of the ubiquity of cell phones and computers, a large percentage of underserved populations have access to mobile or online banking. This ubiquity should serve to improve access to credit union products and services for underserved communities.

Serving underserved populations is inherently aligned with the credit union mission and all credit unions that wish to add underserved areas to their field of membership should be permitted to do so. Too many Americans are unbanked, underbanked, or underserved by financial institutions and do not have the access that they need to financial services. Credit unions stand ready to help with financial literacy education and access to loans and other financial products but are unnecessarily limited in their ability to add underserved areas to their field of membership. NAFCU has long supported legislation that would allow all credit unions to add underserved areas to their field of membership and continues to advocate for it on Capitol Hill. NAFCU appreciates the NCUA Board's vocal, bipartisan support of this legislation in the past and looks forward to working with the NCUA and Congress to make this extremely necessary amendment to the FCU Act a reality.

Recognition of Online and Mobile Banking Is Necessary and Appropriate

Online and mobile banking is the primary method that a majority of consumers use to access their accounts.¹ In a 2018 study by Business Insider, 89 percent of survey respondents indicated that they use mobile banking. While it is widely accepted that millennials prioritize online and mobile banking, this ubiquity is not limited to the younger generations. Even for consumers who may not have used these channels prior to the onset of the COVID-19 pandemic, they have now grown used to accessing financial products and services in this manner. Reportedly 79 percent of Baby

¹ Brown, Tyler, *US Mobile Banking Competitive Edge Study 2020 Report*, Business Insider (Dec. 1, 2020), available at <https://www.businessinsider.com/us-mobile-banking-competitive-edge-study-2020>.

Boomers use and see the benefits of online and mobile banking.² Correspondingly, the number of total physical bank branch locations have decreased by 7 percent in the last five years.³

This technological development in accessing products and services is not only a question of how we do our banking. It is a foundational, societal shift in how products and services are available to us. In what is immediate, available, and accessible – in other words, in what is proximate - to us. The world has changed. The NCUA must recognize and reckon with this changed world and ensure that federal credit unions and the consumers they would like to serve are not penalized for investing credit union capital in these technologies that are necessary for the survival and growth of credit unions rather than investing that capital in unnecessary and rarely visited physical branches.

Because of this shift, it is critical that the NCUA meaningfully incentivize and facilitate credit union investment in mobile and online technologies. These technologies are absolutely crucial to credit unions' ability to compete in the digital market. Without them, the credit union industry will continue to consolidate and the value of the federal credit union charter will deteriorate. The first federal credit unions to fall victim to these market forces will be those least able to balance the limitations on their own growth against the cost of these technological investments, such as low-income and minority depository institution credit unions. The long-term survival of federal credit unions hinges on their ability to invest in these technologies. The NCUA should seek opportunities to advance credit union investment in these technologies, not discredit their value.

Ensuring Field of Membership Has Meaning

As technology has created an environment where any robust online and mobile banking platform means that any credit union is proximate to a group's location, the NCUA must consider other methods to ensure that federal credit union fields of membership continue to have meaning. For example, the NCUA has approved the use of brief narratives to support relationships between a trade, industry or profession (TIP) entity and individual suppliers and vendors in adding the latter to a TIP charter. The NCUA has also accepted narratives to support evidence of common interests or interactions within the context of community-chartered credit unions.

The NCUA should extend the same flexibility to multiple common bond credit unions allowing the credit union to provide narrative evidence of the anticipated symbiosis between the select group and the credit union. For example, a credit union could establish the select groups' anticipated needs for financial products and services and the credit union's corresponding ability to serve them within the context of its current strategic goals, its scale and capacity, and its current technology. Alternatively, a credit union could also establish, by narrative evidence, concordant interests, mission, and values between the select group and the credit union, establishing how the select group will provide stability and richness to the existing membership. These types of

² Meola, Andrew, *The Digital Trends Disrupting the Banking Industry in 2021*, Business Insider (Jan. 6, 2021), available at <https://www.businessinsider.com/banking-industry-trends>.

³ Horan, Stephanie, *The Decline of Physical Banks in America – 2020 Study*, smartasset (Mar. 10, 2020), available at <https://smartasset.com/checking-account/decline-of-physical-banks-in-america-2020>.

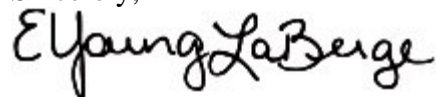
considerations are already fully incorporated into the thorough analysis for adding an underserved area.

Such a change may cause concern among the banking industry, leading to increased litigation risk for the NCUA and the credit union industry. These spurious attacks, motivated by bank shareholders' concern for their bottom-line, should not prevent the NCUA from taking important and necessary steps to modernize field of membership requirements for federal credit unions and improving access to the credit unions system for all Americans.

Conclusion

The need for field of membership relief is immediate and will only intensify as the pandemic exacerbates existing inequities. It is in the best interest of American consumers and federal credit unions that field of membership requirements be easy to understand, navigate and execute. NAFCU supports the proposed rule and urges the NCUA to consider recognizing online and mobile banking channels as service facilities as quickly as possible. If you have any question or concerns, please do not hesitate to contact me at (703) 842-2272 or elaberge@nafcuhq.org.

Sincerely,

A handwritten signature in black ink that reads "E Young LaBerge". The signature is written in a cursive, flowing style.

Elizabeth M. Young LaBerge
Senior Regulatory Counsel