



**National Association
of Federal Credit Unions**

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NAFCU | Your Direct Connection to Advocacy, Education & Compliance

September 2, 2016

The Honorable Rick Metsger, Chairman
The Honorable J. Mark McWatters, Board Member
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Modernization of Field of Membership Process and Procedures

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the process and procedures related to the National Credit Union Administration's (NCUA's) field of membership rule (FOM).

Background

Over the past several years, NCUA has made earnest attempts to modernize the FOM amendment process and procedure. In 2010, NCUA finalized a rule that defined communities with clear objective criteria, which eliminated burdensome guesswork when applying for community charters. In 2011, NCUA further streamlined charter applications by releasing a six-page template which set basic expectations for Business and Marketing Plans, and then finalized a rule in early 2015 that allowed twelve categories of well-established associational common bonds to be automatically approved.

Then, in November 2015, NCUA proposed the most significant FOM modernization in more than fifteen years. Over the course of that time, state regulations had increasingly relaxed state FOM rules, affording state chartered credit unions additional flexibilities of which FCUs could not take advantage. As this asymmetry between state and federal FOM rules grew, FCUs increasingly converted to state chartered credit unions.

In recognizing the competitive disadvantage that NCUA was bestowing upon FCUs, NAFCU wrote a letter in May 2015, requesting the Board to implement improvements that our members requested over the past several years. In particular, NAFCU urged NCUA to modernize FOM regulations as a minimum requirement to maintain competitiveness with state chartering authorities, and we encouraged the agency to fully utilize its statutory authority to provide relief to FCUs. NAFCU was therefore pleased when, in November 2015, NCUA proposed a modernization of the FOM rule that contained many of our recommendations.

While NAFCU restates our strong support of the agency's proposal to update its FOM rule, which will increase credit union options and minimize regulatory burden, further communications with our members indicate that the agency needs to make changes to its FOM amendment process and procedures.

The Need for Process Modernization

NCUA's goals in proposing the revised FOM rule was to ease any undue burdens and restrictions on an FCU's ability to provide services to consumers who are eligible for FCU membership, to enhance the menu of strategic options for FOM expansions, and to maximize competitive parity between federal and state charters.

Because so many FCUs have a pent-up desire to take advantage of the modernized FOM rules, NAFCU anticipates a surge of applications for FOM charter amendments. However, NAFCU has received feedback that indicates the current and proposed processes are too cumbersome. In addition to being burdensome for FCUs, the processes also require the agency to review the entire application despite the fact that only portions are needed to adequately determine whether the amendment is granted, needlessly consuming staff's time.

Recognizing that the process could be improved, the proposed rule's preamble indicated that NCUA's Office of Consumer Protection (OCP) is already working to streamline processes for charter applications and amendments, including steps to significantly reduce the amount of paperwork it takes FCUs to add new members. As the agency develops ways to revise procedural portions of the FOM rule, NAFCU met with OCP staff on August 4, 2016, to discuss ways to streamline the charter amendments.

Suggestions for Improvement

Even before the modernization rule was proposed, NAFCU had been gathering and submitting process and procedure recommendations to NCUA. Although NCUA incorporated many of our suggestions into the proposed rule, there are still several other recommendations that NAFCU urges the agency to consider.

First, there is no established or required time period by which the agency must respond to an application or amendment request. NAFCU has heard from our members that it might take up to 18 months before their FOM requests are approved or denied. NAFCU believes that the agency should adopt a standard period of response to application and amendment requests.

Second, NCUA's Chartering and FOM Manual has not been updated since 2003, and as a result, there are several sections that do not conform to more recent agency changes. The Manual currently calls for application and amendment request to go through the Regional Director's office, despite the fact that the agency changed the process for FOM amendments to go through NCUA's OCP. The manual needs to be updated.

Third, NAFCU believes that the online FOM application could be updated as well. Currently, it does not allow credit unions to attach necessary documents to an application. The application system also fails to provide FCUs with notifications or updates on the status of their request

except for the final decision. NAFCU believes that NCUA could provide more transparency to credit unions during this process.

Finally, several members have suggested ways to streamline the application to amend a community charter's FOM. If a credit union seeks to amend its geographic boundary *within* its single political jurisdiction or statistical area, both the current and the proposed rule require a FCU to follow the requirements of Section V.A.4, which include submission of lengthy marketing and business plans. However, many of the requirements in V.A.4 seem like they would only be needed for either a *de novo* credit union, or for a SEG-based credit union converting to a community charter. Instead, NAFCU believes the agency should adopt a streamlined application for expansion requests. These could be similar to the proposed streamlined application for community charters seeking to add a bordering geographic boundary *outside* the FCU's single political jurisdiction or statistical area.

In the proposed rule, the Board recognizes that existing community charter FCUs seeking to add bordering areas to their existing community charters historically have already established a track record of their community, and therefore should not be subject to the same requirements as those for a credit union seeking to convert to or establish a *de novo* community charter. Accordingly, the Board proposed that such FCUs seeking to add a bordering area should be able to follow a streamlined set of business plans.

As seen in the chart below, the requirements in the streamlined set of business plans are only a fraction of the requirements set out in the standard marketing and business plan laid out under Section V.A.4, which would be required for a community charter seeking to expand its geographic boundaries *within* its single political jurisdiction or statistical area.

Required in the business and marketing plan?	Standard business and marketing plan (Sec V.A.4)	Streamlined business and marketing plan
How business plan will be implemented	Yes	No
Unique needs of various demographic groups in proposed community	Yes	Yes
Plan for marketing to each group	Yes	Yes
Which community based organizations the credit union will target in its outreach efforts	Yes	No
Marketing budget projections dedicating greater resources to reaching new members	Yes	No
Timetable for implementation	Yes	No

While it is appropriate for NCUA to require the standard V.A.4 business and marketing plans from *de novo* or charter-converting credit unions to ensure that they can handle the unique burdens associated with a community charter, these same requirements should not be necessary for an already existing community charter FCU looking to expand its geographic boundaries. An existing community charter FCU has already demonstrated that it can meet the unique needs of a community based charter. Therefore, because a streamlined application is already available for

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credit unions expanding to bordering areas *outside* their existing single political jurisdiction or statistical area, NAFCU urges the agency to similarly streamline the amendment application process for community charter credit unions looking to expand their boundaries *within* their single political jurisdiction or statistical area.

NAFCU looks forward to meeting with NCUA staff to discuss this letter's recommendations. Should you have any questions, please do not hesitate to contact me at (703) 842-2249 or memancipator@nafcu.org.

Sincerely,



Michael Emancipator
Senior Regulatory Affairs Counsel

CC: Gail Laster, Director of Office of Consumer Protection