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Part II

National Credit Union Administration

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Final Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The Credit Union Membership Access Act modified NCUA's chartering and field of membership authority. Accordingly, NCUA is finalizing a number of amendments to its policies to update them consistent with the recent legislation.

Additionally, the final rule revises and updates NCUA's chartering and field of membership policy to reflect the advances and changes in chartering requirements since the promulgation of IRPS 94–1. The majority of the revisions reflect NCUA's policy on the types of federal credit union charters and the criteria necessary to amend a credit union's field of membership. The legislation authorizes three types of credit union charters. These charter types include a single occupational or associational common bond, a multiple common bond, or a local community, neighborhood, or rural district serving a well defined area.

Along with a comprehensive update of chartering policy, the format of the chartering manual has been changed to make it more user-friendly. The final rule further clarifies overlap issues, mergers, low-income policies regarding low income charters and service of underserved areas, the definition of immediate family member or household, and the ''once a member, always a member'' policy.

DATES: Effective date: January 1, 1999.

Applicability date: IRPS 99–1 will be applicable January 1, 1999, except for the provisions on the definition of ''local community, neighborhood or rural district, and ''immediate family member or household,'' which will be applicable March 5, 1999, unless disapproved by Congress under the major rule provisions.

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SUPPLEMENTARY INFORMATION: In 1982, the changing negative economic environment created safety and soundness concerns that prompted the Board to revise its chartering policy to permit membership in a federal credit union to consist of multiple common bonds, provided each group possessed a common bond. Such membership could be accomplished through the chartering process, through charter amendments, or by way of merger to form a single credit union. This policy change strengthened the federal credit union system by enabling NCUA to merge credit unions that otherwise would have failed because of the loss of a sponsor or other financial or operational downturns. The policy also enabled federal credit unions to diversify their membership and become less dependent on the financial success of one sponsoring company or group. An important advantage of the policy change was that it provided access to credit union service for small groups of people who did not have the resources to charter their own credit unions. The Board issued subsequent changes to the 1982 chartering policy in 1984, 1989, 1994, 1996, and 1998, most of which addressed the multiple common bond policy.

In First National Bank and Trust Co., et al. v. *National Credit Union Administration,* 90 F.3d 525 (D.C. Cir. 1996), the U.S. Court of Appeals for the District of Columbia Circuit invalidated certain select group additions to the field of membership of a North Carolina credit union (the ''Decision''). In that case, the Court ruled that groups with unlike common bonds could not be joined to form a single credit union. Furthermore, in the consolidated cases of *First National Bank and Trust Co., et al.* v. *NCUA* and the *American Bankers Association, et al.* v. *NCUA et al.,* the U.S. District Court issued a nationwide injunction prohibiting federal credit unions from adding new select groups to their fields of membership that did not share a common bond (the ''Order''). The Decision and Order affected the operations of approximately 3,600 multiple common bond federal credit unions serving approximately 158,000 select groups.

On February 25, 1998, the U.S. Supreme Court ruled that NCUA's multiple common bond policy was impermissible under the Federal Credit Union Act (FCUA). *National Credit Union Administration* v. *First National Bank & Trust Co. et al.,* 118 S. Ct. 927 (1998). The Supreme Court affirmed the lower court's finding that groups with unlike common bonds could not be joined to form a single occupational credit union. As a result, Congress addressed the multiple common bond and other field of membership issues and recently enacted legislation reinstating NCUA's multiple common bond policy with some modifications. The Credit Union Membership Access Act (''CUMAA''), Public Law 105–219. CUMAA updated the statutory common bond rules for the first time since 1934.

Accordingly, on August 31, 1998, the Board issued a proposed rule that revised and updated NCUA's chartering and field of membership policies with a sixty day comment period. 62 FR 49164 (September 14, 1998). The policy was issued as proposed IRPS 98–3. Three hundred and sixty-nine comments were received. Comments were received from one hundred and eighty-one federal credit unions, twenty-three state chartered credit unions, thirty state credit union leagues, four national credit union trade associations, two congressmen, seventy-two banks, thirty bank trade associations, twenty credit union members, two law firms, one credit union sponsor, one certified public accountant, one consulting firm, one advocacy group and one other individual. Except for the bank and bank trade associations, most commenters were very supportive of the proposed chartering and field of membership policies, although most commenters suggested ways they would modify the final rule. Except for the section on mergers, the bank and bank trade association comments are summarized in a separate section. Although a separate section is devoted to the comments received from the bankers and bank associations, the issues they raised are addressed throughout the preamble in response to other similar comments.

The comments received were varied and addressed virtually every field of membership issue. All the comments were carefully reviewed, particularly those that expressed concern or that were in opposition to the proposed field of membership provisions, and a response to most of the issues raised is set forth in the section by section analysis of the comments. There were, however, five issues that generated numerous comments and either were confusing or proved somewhat controversial to the commenters. They were: (1) overlaps and exclusionary clauses; (2) economic advisability (the

numerical threshold for member support to charter a new credit union); (3) reasonable proximity and service facility requirements for select group additions to multiple common bond credit unions; (4) voluntary mergers of financially healthy multiple common bond credit unions; and, (5) the definition of immediate family member or household. Accordingly, these five issues are separately addressed in the preamble.

A. Overlaps and Exclusionary Clauses

Occupational and Associational Single Common Bond Credit Unions

The Board proposed that, as a general rule, NCUA will not charter two or more credit unions to serve the same single occupational or associational group. Consequently, the proposal provided overlap protection for single occupational or associational credit unions. However, the Board further proposed that an overlap would be permitted when two or more credit unions are attempting to serve the same group if the overlap's beneficial effect in meeting the convenience and needs of the members of the group proposed to be included in the field of membership clearly outweighs any adverse effect on the overlapped credit union. This language parallels the statutory requirement for multiple common bond credit unions.

The proposal set forth when NCUA would permit an overlap of an occupational or associational credit union and what NCUA considers in reviewing an overlap. The Board stated that an occupational or associational credit union will rarely, if ever, be protected from overlap by a community charter. The Board also stated that where a federally insured state credit union's field of membership is broadly stated, NCUA will exclude its field of membership from overlap protection. NCUA defines ''broadly stated'' to mean either a statewide field of membership or a field of membership that would not comport with or is inconsistent with federal field of membership policies.

Multiple Common Bond Credit Unions

The Board proposed that NCUA will generally not approve an overlap unless 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 clearly outweighs any adverse effect on the overlapped credit union. The proposed overlap policy restated the statutory requirement for addressing overlap issues affecting multiple common bond credit unions. The proposal also set forth the issues NCUA would consider in reviewing the overlap. In general, if the overlapped credit union did not object, and NCUA determines that there are no safety and soundness problems, the overlap would be permitted. If, however, the overlapped credit union objected to the overlap, a more detailed overlap analysis would be required.

The Board proposed that overlaps between multiple common bond credit unions and community chartered credit unions would be permitted without performing an overlap analysis, since NCUA has determined that, in these types of overlaps, the benefit of the overlap to the member will always outweigh the harm to either credit union. The Board stated that a multiple common bond credit union would rarely, if ever, be protected from overlap by a community charter.

Community Charters

The Board proposed that a credit union seeking a community charter contact all federally insured credit unions with a service facility in the proposed service area. Notwithstanding the requirement to contact all credit unions within the proposed service area, the proposal permitted a community credit union to overlap any other type of credit union charter. The Board stated that a community charter would rarely, if ever, be protected from overlap by a single occupational, single associational or multiple common bond credit union. If safety and soundness concerns existed, the Board proposed providing overlap protection from a community charter for a limited period of time, generally 12 to 24 months.

In the past, exclusionary clauses were permitted for reasons other than for safety and soundness, such as when there was an agreement between the overlapping credit unions. An exclusionary clause, under circumstances other than for safety and soundness, would not be permitted under the proposal if the overlapping credit union was a community charter. The Board requested specific comment as to whether exclusionary clauses are appropriate for community charters and, if so, under what circumstances.

Comments

There were numerous comments on overlaps and how NCUA should address this issue. For example, seventeen commenters objected to overlap protection for any credit union regardless of the reason. Eleven commenters objected to overlap protection, except if the overlap causes significant harm to the existence of another credit union. Five commenters approved of NCUA's proposed policy on overlaps. One commenter stated that overlap procedures should be the same for all types of credit unions. Five commenters recommended overlap protection for small credit unions. One commenter recommended that NCUA carefully review any overlaps of small credit unions. Two commenters recommended overlap protection. Many other commenters suggested different methods of addressing overlap issues.

There were also numerous comments on exclusionary clauses. For example, forty-two commenters suggested that NCUA provide a procedure to allow one credit union to petition to remove existing exclusionary clauses, regardless of charter type. A number of these commenters suggested that exclusionary clauses are almost impossible to police and frustrate the consumer. One commenter stated that NCUA should rarely impose exclusionary clauses. Seven commenters believed the removal of an exclusionary clause should be approved only if both credit unions agreed. Three commenters opposed a process to remove exclusionary clauses. Many other commenters addressed the use of exclusionary clauses.

Three commenters approved of the overlap rules for community charters. Three commenters stated that exclusionary clauses should never be a part of a community charter's field of membership. One commenter stated that exclusionary clauses should rarely be used. Five commenters requested overlap protection from community credit unions. Three commenters requested overlap protection for community credit unions. Three commenters recommended exclusionary clauses for small credit unions that are overlapped by community charters. Three commenters stated that only one credit union should be chartered per community.

Forty-two commenters supported the proposal to provide a process for removing existing exclusionary clauses from community charters. Many of these commenters did not believe that two credit unions should be required to agree to remove the exclusionary clause. Seven commenters believed that an exclusionary clause should be removed only if the two affected credit unions agreed. A number of these commenters suggested that exclusionary clauses are almost impossible to police and frustrate the consumer. Three commenters opposed a process to remove exclusionary clauses.

NCUA Board Analysis and Decision on Overlaps and Exclusionary Clauses

In formulating its opinion on overlaps, NCUA considered not only the comments in response to the current proposal, but also the information gathered in the internal review of the overlap policies permitted under IRPS 94–1 and previous field of membership policies. In the internal review of 58 overlapped credit unions, no long-term adverse financial trends were discovered. The information tended to support the contention that overlaps have not caused any credit union to fail, even though there was, in a limited number of cases, a temporary loss in market share. This finding was consistent with other studies on overlaps, including a recent analysis by the Office of Examination and Insurance on 14 overlapped credit unions where the original recommendation to include an exclusionary clause was not approved by the Board. Overall, the overlapped credit unions did not suffer any harm and reported positive financial trends. Most credit unions experienced an increase in shares, assets, and loans. Delinquency declined and share and loan growth improved. The earlier research was supplemented by a random survey of federally insured credit unions that obtained a response rate of 57 percent. Of the 642 responding credit unions, 284 were overlapped and 34 overlapped other credit unions. In summary, 52 percent of the responding credit unions viewed field of membership overlaps as harmful for credit unions while 48 percent reported overlaps were beneficial. Interestingly, however, when viewed as harmful or beneficial for the credit union members, the opinions were decidedly different. In response to this issue, 82 percent indicated that overlaps benefit members.

The proposed policy on overlaps took into consideration NCUA's experience, the internal review and the survey. The final rule also considered the commenters' opinions. The Board's opinion remains that the overlap policy, as enunciated in the proposal for single occupational and associational credit unions, is supportable and in the best interests of credit unions. In general, credit unions will not be chartered to serve the same common bond group, but incidental overlaps, as defined below, would be permitted. The final rule includes a provision that allows a credit union that has an existing exclusionary clause to petition NCUA to have the exclusionary clause removed.

A decision on whether the clause will be removed will be based on an analysis of the impact of removing the clause on the overlapped credit union.

This same concept adopted for single common bond credit unions also applies to multiple common bond credit unions in that an overlap analysis, except for incidental overlaps, will be required before a group will be added to a credit union's field of membership. This is a statutory requirement. An overlap will not be permitted unless 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 clearly outweighs any adverse effect on the overlapped credit union. The final rule includes the same criteria set forth in the proposed rule relative to what the regional director will consider in determining whether an overlap will be permitted.

The final rule, however, clarifies that an overlap analysis will not be required if the group to be added has 200 primary potential members or less. In view of the fact that approximately one-third of the primary potential members join a credit union, the Board believes a group of 200 primary potential members or less will be considered incidental. That is, the benefit to the members will always outweigh the harm to the credit union. Accordingly, a credit union applying to add a group of 200 or less primary potential members will only have to complete the 4015-EZ, which is a shortened version of the standard 4015 (the application for a field of membership amendment). No overlap analysis is required if the group being added is 200 or less.

The overlap policy for community credit unions recognizes the operational difficulty in enforcing exclusionary clauses. Additionally, it recognizes that credit union members will benefit if additional credit union choices are made available. Accordingly, it is the Board's view that community credit unions should be allowed to overlap, with a minor exception for newly chartered single common bond or multiple common bond credit unions, any credit union within the community. Consequently, no overlap analysis will be required for any credit union within a proposed community credit union's well defined area unless it is a newly chartered credit union (chartered less than 2 years). Although the commenters requested a longer time frame for protection from a newly chartered community charter (by way of conversion or a new credit union charter), the Board is only providing protection through the inclusion of an exclusionary clause for a period of 12 to 24 months from the date of the overlapped credit union's charter for a new single common bond or multiple common bond credit union. If safety and soundness concerns exist, the regional director may extend the exclusionary clause protection for a period that does not exceed 60 months from the date the overlapped credit union was chartered. Unlike the proposed rule, no overlap protection will be provided any community charter.

B. Economic Advisability

NCUA's proposed provisions on new charters and charter expansions emphasized that NCUA will evaluate the economic advisability of the proposed institution or expansion as well as its effect on other credit unions. While NCUA did not set a minimum field of membership size for chartering a federal credit union, the Board suggested, based on historical data and evidence of economic viability, that a credit union with fewer than 3,000 primary potential members (e.g., employees of a corporation or members of an association) may not be economically advisable. Therefore, a charter applicant with a proposed field of membership of fewer than 3,000 primary potential members may have to provide more support than a proposed credit union with a larger field of membership in order to demonstrate that it is economically advisable and that it will have a reasonable chance to succeed. The 3,000 primary potential member threshold number is also operationally consistent with the multiple common bond expansion requirements. The Board specifically requested comments on whether the economic advisability number should be set at a lower or higher level.

Comments

Fifty-one commenters supported the 3,000 primary potential member number as a useful threshold for defining the viability of a new credit union. A few commenters stated that the 3,000 minimum presumption promotes consistency with the statutorily required 3,000 member cap for the addition of a new select group in a multiple common bond credit union. A number of these commenters stated that NCUA should be flexible in determining how many people are necessary to start a new credit union. These commenters suggested that NCUA consider other factors in determining viability such as the ability to obtain adequate capitalization and the level of resources. Fourteen commenters believed the economic advisability number is low and six suggested a number in excess of

5,000 primary potential members as a threshold for viability. A few commenters stated that the 3,000 threshold is almost meaningless in today's economy. These commenters stated that consumers are not going to wait for a credit union to grow to offer financial services.

Twenty-one commenters did not agree with the economic advisability number. Ten commenters believed the economic advisability number is too high. A number of these commenters stated that NCUA should be flexible with any numerical member threshold. A number of commenters further stated that, if a smaller group is financially sound, NCUA should charter the credit union. Conversely, if a larger group is not financially sound, then NCUA should not charter the credit union. One commenter believed the 3,000 threshold may soon become a requirement which will be particularly onerous to the chartering of faith-based credit unions. Some commenters requested that NCUA provide the rationale for choosing the 3,000 number threshold.

NCUA Board Analysis and Decision on Economic Advisability

The Board is adopting the 3,000 primary potential member threshold in the final rule. This position is consistent with congressional intent as well as NCUA experience. This threshold is not intended to undermine the statutory requirement to encourage the formation of new credit unions. Rather, it has been established to provide potential new charters necessary advice and guidance to charter a successful credit union. Any group desiring to form its own credit union will be given every opportunity to demonstrate it has met the economic advisability requirements. Additionally, any group not desiring to charter its own credit union will be reviewed to determine if in fact it can be separately chartered.

IRPS 94–1 established the economic advisability threshold as 500 primary potential members. Notwithstanding this threshold number of 500, the Board's opinion has long been that the 500 primary potential members threshold was extremely low, particularly in view of the fact that only approximately one-third of the primary potential members join. Accordingly, there have been numerous recommendations that the 500 threshold number should be increased.

Since 1996, NCUA has chartered 29 new credit unions. Only one of these new charters had a primary potential membership that was less than 3,000. While there are many factors impacting why the number of new charters since 1996 is low, experience has indicated that one critical factor is the financial service expectation of the potential members. That is, what type of financial service will the new credit union provide? If the financial service is limited, then it will not meet the members' financial service expectations and, as a result, the credit union will not be fully supported. The analysis of whether a new group can form a new credit union must take the members reasonable expectations into consideration. Failure to do so would put the National Credit Union Share Insurance Fund (''NCUSIF'') at risk.

The Board's view is that the 3,000 primary potential membership threshold is an economically advisable number for potential new charters, but not an absolute requirement. This distinction is important. For example, there are approximately 3,100 federal credit unions with primary potential members of less than 3,000. Approximately 700 of those have primary potential members of 500 or less. For the most part, however, at the time of their charter, economic conditions and the financial service expectations of the credit union members were different. These differences provided the credit unions an opportunity to become established and develop a loyalty base under marketplace expectations that significantly differ from those of today. The Board must consider the evolving nature of the financial marketplace. It would be remiss simply to say that, since a lower threshold number worked in the past, there is no need to change the economic advisability number requirement today.

The Board's intent is that every group being added to a multiple common bond credit union should be analyzed to determine whether it has the capability and desire to support an independent operation. Indeed, that is the intent of the legislation. This requirement, however, must be balanced with operational feasibility. To overlook the complexities of providing financial services will only lead to additional supervisory problems. The regulatory approach, therefore, should incorporate known economic factors and the likelihood of success in establishing and managing a new credit union in today's marketplace. To this end, the Board's intent is that a group desiring a separate charter should have every reasonable opportunity to form a new credit union. As stated earlier, the 3,000 primary potential member threshold is not an absolute, but simply a threshold. There are numerous examples where smaller groups can and should have a separate credit union. For example, faith based credit unions, as one commenter suggested, may be uniquely positioned to be separately chartered.

The expectation is that those groups above the threshold of 3,000 primary potential members must be able to demonstrate why they cannot satisfactorily form a separate credit union if they want to be added to another credit union. Statutorily, there is a presumption that, unless certain exceptions apply, a group larger than 3,000 should form its own credit union. That is, the exception criteria will be closely evaluated. Groups below the 3,000 threshold, however, must be able to demonstrate why they can successfully operate a credit union. In other words, the emphasis shifts based on the size of the group. For example, a group of 525 may have more difficulty demonstrating economic advisability than a group of 3,000. This is a balanced approach to the financial service expectations of the members, the intent of Congress that all groups should be analyzed to determine if the formation of a separately chartered credit union is practicable and consistent with economic advisability criteria, and those factors that are historically important in evaluating a new charter applicant from a regulatory standpoint. This is an economically and operationally sound approach to chartering new credit unions. The Board believes it must not only encourage new charters, but also ensure to the fullest extent possible that those groups receiving a separate charter will have a reasonable basis for success and thereby avoid unnecessary risks to the NCUSIF. Accordingly, the field of membership rules on economic advisability must reflect known economic factors and the potential risks to the NCUSIF. It is essential, therefore, that the approval process incorporate the necessary regulatory analysis to make these determinations.

The question was raised concerning the standard that will be used in determining what level of services is adequate in determining the separate charter analysis vis-á-vis an already established credit union. That is, if a new charter can only offer limited services, but an existing charter offers a full service menu, will that fact in of itself be sufficient to determine that a separate charter is not required. One commenter stated that ''the economic advisability does not take into consideration whether the group would be able to have similar services.'' The Board's opinion is that such a standard would circumvent the intent of the statute and, if adopted, the potential for new charters would be drastically

reduced. Except in very rare circumstances, no new credit union charter can offer the same financial services of an established credit union. Accordingly, a similar service criterion cannot be a factor in determining whether a new group will meet that standard. However, if the group is already in the field of membership of a credit union and has been receiving expanded financial services, it is reasonable to consider that factor. This may occur in voluntary merger situations. For that reason, out of fairness to such a group, the failure to provide similar or equal services is more important, but not necessarily dispositive of the issue.

It is also incumbent on the Board to establish rules that are not unnecessarily burdensome. For that reason, it has adopted the presumptive factor of 3,000 in determining what criteria will be applicable. In adopting the 3,000 primary potential member threshold factor, the Board recognizes that newly chartered credit unions in today's financial marketplace have unique challenges. Those groups that can or should be able to meet those challenges, regardless of size, will be required to form a separate credit union unless they meet the common bond requirements. As the legislation directs, the Board will encourage the formation of separately chartered credit unions if it is prudent and economically advisable. Important factors in making this determination, however, are the desire and intent of the group and the sponsor support. In other words, to ignore the group's administrative capability may lead to unnecessary supervisory problems in the future. While the intent of the group and sponsor support cannot be ignored and will carry great weight, they are not the sole factors. The final decision must be based on an independent regulatory analysis in consideration of the remaining factors specified in the regulation.

Four commenters recommended that NCUA include in its definition of economic advisability the statutory language from CUMAA that encourages the formation of separately chartered credit unions ''whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.'' 12 U.S.C. 1759(f)(1)(A). The Board agrees with these commenters and has incorporated this change into the final rule in the discussion on multiple common bond charter expansions.

C. Reasonable Proximity and Service Facility Requirements for Select Group Additions

CUMAA reinstated NCUA's multiple common bond policy, as set forth in IRPS 94–1, with significant modifications. A multiple common bond credit union may serve a combination of distinct, definable, occupational and/or associational common bonds. Multiple common bond credit unions can add groups with dissimilar common bonds, which are called select groups. These groups must be within reasonable proximity of the credit union. That is, the groups must be within the service area of one of the credit union's service facilities.

Comments

Twenty-five commenters agreed with NCUA's definition of reasonable proximity, although a number of these commenters stated NCUA should give consideration to accessibility via the internet and home banking.

Six commenters were unsure as to what is meant by ''within the service area'' and questioned how that term will be applied. Ten commenters stated that the reasonable proximity standard should not be applied in a blanket fashion. For example, some of these commenters stated that the distance should be farther in rural areas for the purpose of determining what constitutes reasonable proximity.

Fifty-two commenters disagreed with NCUA's definition of reasonable proximity. Most of these commenters believed it is not necessary, legally or for safety and soundness reasons, since credit unions can automatically and electronically deliver services around the globe. Some commenters stated that NCUA's definition of reasonable proximity goes well beyond congressional intent. These commenters stated that Congress intended that groups be located within a close geographic area to the credit union.

The Board defined a service facility as a place where shares are accepted for members' accounts, loan applications are accepted, and loans are disbursed. This definition included a credit union owned branch, a shared branch, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition did not include an ATM. Thirty-one commenters agreed with NCUA's definition of service facility. One commenter requested that NCUA specifically state that a mobile branch is a service facility for multiple common bond expansions.

Thirty-one commenters did not approve of NCUA's definition of service facility. Most of these commenters believed that, with the advent of electronic services, a ''brick and mortar'' facility is obsolete. Nineteen commenters requested that ATMs be included as a service facility. Some of these commenters recommended deleting parts of the definition that requires the facility to be a place where deposits are made, loan applications are accepted and funds disbursed. A few commenters stated that NCUA's definition of service facility goes well beyond congressional intent.

NCUA Board Analysis and Decision on Reasonable Proximity

As indicated above, there were numerous comments on the proposed definition of ''reasonable proximity.'' Suggestions ranged from mileage to electronic limitations. Reasonable proximity is an essential factor in determining whether a group can be added to a multiple common bond credit union. The Board's view is that CUMAA and its legislative history sets forth the requirement that reasonable proximity should be a geographic limitation. That is, the group to be added must be within reasonable proximity geographically to the credit union. Therefore, the advantages acquired from advancing technologies do not undermine what the Board considers is the congressionally mandated requirement that the group to be added must be within ''reasonable proximity'' to the credit union.

However, it is not the Board's view that the location of the group must be within reasonable proximity to the main credit union office only. This would be an overly restrictive requirement. Since reasonable proximity is not specifically defined in the legislation, the terms service area and service facility were proposed in an effort to establish the limits of a geographic reasonable proximity. That is, the group to be added must be within the service area of a service facility of the credit union. As specified in the final rule, service facility does not include an ATM. The legislative history of CUMAA is clear that NCUA should not treat ATMs as service facilities for select group expansions. Therefore, the final rule excludes an ATM as a service facility. A service facility will include, however, a credit union owned branch, a shared branch, a mobile branch that goes to the same location on a weekly basis, or a credit union owned electronic facility. Additionally, the Board's view is that an office that is open on a regularly scheduled weekly basis will also qualify as a service facility. This will enhance the development of credit union

services in low income and underserved areas. At a minimum, to qualify as a service facility, the member must be able to deposit funds, apply for a loan, and obtain funds on approved loans.

Past experience with mileage limitations indicates that using distance factors to define reasonable proximity would create numerous inequities. Rural areas obviously differ from urban areas. Small towns differ from large cities. The vast geographic territory combined with the sparse population in the southwest and western mountain areas differ from the rural areas of the east. While mileage limitations often facilitate regulatory decisions, frequently, they are artificial and cause unfair results simply because of small geographic differences. Accordingly, mileage limitations were deemed inappropriate and not advisable. Essentially, the service area means that a member can reasonably access the service facility. In rural areas this may include distances encompassing several counties. In a densely populated area, it may be a portion of a city.

D. Voluntary Mergers of Financially Healthy Multiple Common Bond Credit Unions

The proposal set forth the requirements for the merger into, and by, a multiple common bond credit union. In making the proposal, the Board was mindful of the historic importance of mergers to the financial stability of credit unions and of the importance of credit unions to independently determine what is in the best interests of their members. Often in today's marketplace, membership diversity and growth are essential ingredients to financially strong credit unions. Merging credit unions is crucial to the entire credit union system and helps reduce the risk to the NCUSIF. Generally, credit union officials are best suited to judge when a healthy credit union's membership and financial strength will be enhanced by a merger. In making its proposal, the Board sought to balance these realities against its responsibility to assure mergers are consistent with the statutory requirements of CUMAA and that they do not weaken credit unions or increase the risk to the NCUSIF.

The Board proposed, that generally, the requirements applicable to field of membership expansions apply to a credit union merging into a multiple common bond credit union. That is, if the continuing credit union in a proposed merger is federally chartered and the merging credit union has a select group of 3,000 or more persons (excluding family members), the merger can be approved only if NCUA's expansion requirements are met. If the expansion requirements are not met, this would require a credit union to spin-off a select group of 3,000 or more persons from the merging credit union or the merger could not be approved. In all cases, the individual groups in the merging credit union would have to meet the multiple common bond policies.

Comments

Only one commenter supported the proposed merger process. Sixty-two commenters believed financially healthy multiple common bond credit unions should be permitted to merge without the constraints of the proposed 3,000 limitation approval process. Twenty-two of these commenters stated that CUMAA did not change NCUA's existing merger authority under Section 205(b) of the Federal Credit Union Act (''FCUA'') and that the 3,000 numerical limitations only applies to field of membership expansions and not mergers. Generally, all bank and bank trade organizations opposed the proposal. They argued that CUMAA and its legislative history require that the statutory standards, including the 3,000 numerical limitation, apply whether a single group is being added to a credit union or whether a voluntary merger of a credit union with many groups is being contemplated.

NCUA Board Analysis and Decision on Voluntary Mergers of Multiple Common Bond Credit Unions

In response to the comments raised by credit union trade organizations and bank trade organizations, as well as a further review of the statutory language and legislative history, the Board has decided to amend its proposal. Recognizing the importance of mergers to a stable healthy credit union system, the final rule permits the voluntary merger of healthy multiple common bond credit unions containing select employee groups of less than 3,000 primary potential members without regard to the statutory analysis that is required when non-affiliated groups of less than 3,000 members seek to join an existing credit union. In credit unions seeking to merge containing groups with 3,000 or more members, the provisions of Section 101(d)(2)(A) of CUMAA must be met or the groups in excess of 3,000 will have to be spun off in order for the merger to proceed. All credit unions seeking a voluntary merger will still be required to comply with the requirements of Section 205(b) of the FCUA, 12 U.S.C. 205(b). However, because of statutory requirements, a financially healthy single common bond credit union with a primary potential membership in excess of 3,000 primary potential members cannot merge into a multiple common bond credit union, absent supervisory reasons.

In making this change the Board is mindful of its obligation to be faithful to the statutory language. In doing so, ''the starting point must be the language of the statute itself.'' *Int'l Brotherhood of Electrical Workers* v. *NLRB*, 814 F.2d 697, 710 (D.C. Cir. 1987) (quoting *Lewis* v. *United States*, 445 U.S. 55, 60 (1980). Frequently, the ''best guide to what a statute means is what it says.'' *Stewart* v. *National Shopmen Pension Fund*, 730 F.2d 1552, 1561 (D.C. Cir.) *cert. denied* 469 U.S. 834 (1984) (emphasis in original). Section 101(b)(2) of CUMAA authorizes multiple common bond credit unions. Section 101(d)(1) provides that groups of fewer than 3,000 members can generally be added to a multiple common bond credit union provided certain criteria are met. Section 102 sets forth the statutory criteria that must be met. Taken together, these provisions address the chartering of new multiple common bond credit unions and the addition of non-affiliated groups of less than 3,000 members to existing institutions. Though Congress could have done so, it did not include any language discussing or limiting NCUA's ability to authorize the merger of existing multiple common bond credit unions containing groups with less than 3,000 members.

A merger involves the combination of pre-existing corporations, a process different both legally and practically from the addition of a group to a credit union. Mergers of multiple common bond credit unions after adoption of this rule will involve groups already added to the merging credit unions, either after consideration of the criteria set forth in Section 102 of CUMAA, or through the grandfather provision in Section 101(c). In either case, they would already be contained within the field of membership of an existing multiple common bond credit union. Had Congress expected each such group to be evaluated again in accordance with the criteria set forth in Section 102, it could easily have said so.

Congress next provided two exceptions to the 3,000 member limitation in Sections 101(d)(2)(A) and (B) of CUMAA. The first allows the addition of groups of 3,000 or more members if the Board finds that such a group could not reasonably establish its own credit union because: (1) the group lacks sufficient support to form a credit union; (2) it is unlikely to be successful in establishing and managing a credit

union; and (3) the group would be unlikely to operate a safe and sound credit union.

The next exception contains the first mention of mergers in the statute. Section 101(d)(2)(B) expressly eliminates any restriction on the addition of groups of 3,000 or more if the group is being transferred as part of a merger for safety and soundness reasons. By implication, it is the Board's view that, if there are no safety and soundness concerns, groups of 3,000 or more cannot be included as part of a merger unless the statutory criteria of Section 101(d)(2)(A) are met. The Report of the Committee on Banking and Financial Services supports this conclusion. In discussing the exceptions provided in Section 101(d)(2), the report states ''the Board may merge or consolidate a group with over 3,000 members with another credit union for supervisory reasons. The Committee does not intend for these exceptions to provide broad discretion to the Board to permit larger groups to be incorporated within or merged with other credit unions. The exceptions are intended to apply where the Board has sufficient evidence to support a finding that creation of a separately chartered credit union, or the continued operation of an existing credit union, present safety and soundness concerns.'' H.R. Rep. No. 105–472, 105th Cong., 2nd Sess. 19 (1998). Notably absent from this discussion is any mention of limitations on mergers of credit unions containing groups of less than 3,000 members.

In Section 101(d)(2)(C), Congress created an exception applicable to a limited number of cases where a merger was in process, but not completed, under the NCUA's previous field of membership policy. That policy was enjoined in the litigation that led to the passage of CUMAA. The Board believes this provision was intended as a one time authorization to complete a limited number of in process mergers without regard to the size of the groups in the institutions involved.

Finally, the Board does not believe that Congress' failure to amend Section 205(b)(2)–(3) of the FCUA supports a conclusion that Congress intended no limitation on voluntary mergers of credit unions. Section 205(b) does not provide independent statutory authority to allow mergers, but rather permits the Board to regulate voluntary mergers that are otherwise authorized by law. In contrast, Section 205(h) allows the Board to authorize mergers in emergency situations ''[n]otwithstanding any other provision of law.'' Thus, the Board may regulate and approve mergers under 205(b) only if they do not conflict with the limited restrictions, discussed above, provided by CUMAA's amendments to the FCUA.

The limitation on voluntary mergers applicable to multiple common bond credit unions does not apply to the mergers of single common bond credit unions or community charter mergers. The Board recognizes that the numerical limitation in the voluntary merger rule for multiple common bond charters may, in rare circumstances, encourage a federal credit union to seek a state charter credit union as a merger partner if the state rules are more permissive.

The proposal also clarified requirements for mergers of multiple common bond credit unions for safety and soundness reasons and emergency situations. The numerical limitation would not apply to mergers where there are safety and soundness concerns or the emergency criteria exist. Four commenters requested that NCUA expand the discussion on supervisory mergers. Two commenters recommended that NCUA state that the numerical limitation does not apply for safety and soundness mergers even if the credit union is not insolvent or in danger of insolvency. One commenter stated that, when merging two credit unions for supervisory reasons, nonmember employees of the merging credit union would still be eligible for membership in the continuing credit union. The Board has expanded the discussion on mergers for safety and soundness reasons and has specifically stated that the credit union need not be insolvent or in danger of insolvency for NCUA to use this statutory authority. In a supervisory merger, the continuing credit union is able to serve all of the groups from the discontinuing credit union and not just members of record.

Twelve commenters stated that supervisory mergers and emergency mergers should require all credit unions in the area of the merging credit union to be notified so that they have an opportunity to be considered as a merger partner. One commenter stated that when NCUA is seeking out merger partners for a credit union, it should give credit unions in the same state the right of first refusal. NCUA will attempt to find local merger partners for a credit union that is involved in supervisory or emergency mergers. However, the Board is not requiring notification of all local credit unions. The Board believes such a requirement would be a needless bureaucratic hurdle and cause unnecessary delay. The delay could exacerbate existing problems for the soon to be merged credit union. The Board believes that in such cases it could create losses for the NCUSIF, as well as the credit union that accepts the troubled credit union as a merger partner. However, the Board is reemphasizing that it will expect the regions to look first to local merger partners before considering other credit unions. If the Board is notified that the regions are not conducting the process in this way, the Board may consider a more formalized process.

E. Immediate Family Member or Household

As mandated by CUMAA, the Board is required to define ''immediate family member or household.'' The definition of these terms is designated as a major rule and must be submitted to Congress for approval. Accordingly, the Board proposed to define ''members of their immediate families'' as related persons i.e., blood, marriage, or other recognized family relationships in the same household (under the same roof), or if not in the same household, as a grandparent, parent, spouse, sibling, child, or grandchild. For the purposes of this definition, immediate family member included stepparents, stepchildren, and stepsiblings, and, although not specifically stated, adopted children or any other legally recognized family relationship. The Board also stated that the immediate family member must be related to the credit union member. In other words, once a person becomes a member, then that person's immediate family could join. The proposed definition was controversial and generated numerous comments.

Comments

Thirty-seven commenters generally approved of NCUA's definition of ''immediate family member.'' Seven commenters further stated that it will have a positive effect on a credit union's ability to grow. Five commenters believed NCUA's proposed definition of ''immediate family member'' would have a neutral effect on their credit unions.

One hundred and seven commenters generally disagreed with NCUA's definition of ''immediate family member'' and twenty-three of these commenters further stated that it would have a negative effect on a credit union's ability to grow. Twenty-seven of these commenters stated that a credit union should be able to define ''immediate family members.'' Twenty-six commenters requested that in-laws, aunts, uncles and cousins outside the household be included in the definition of ''immediate family member.'' Fifteen commenters suggested that NCUA define ''immediate family member'' to

include all relatives by blood or marriage. Five commenters suggested that NCUA should limit the definition of ''immediate family member'' to those persons directly related by blood, marriage, or other recognized family relationship. Two commenters requested that any existing immediate family member definition as described in the existing charter of a credit union be grandfathered.

Twenty-four commenters questioned whether adopted children were part of the ''immediate family member'' definition and requested they be included within the definition. Two commenters requested that NCUA specifically state that custodial and guardianship arrangements are encompassed by the ''immediate family'' definition.

Nine commenters requested one definition for immediate family member and one definition for household member. These commenters believed that persons living under the same roof, even if not in the same immediate family, are still eligible for membership. Twenty-one commenters requested domestic partners and other nontraditional family relationships be included in the definition of ''immediate family member.'' Thirty-two commenters asked for clarification on the definition of what is a recognized family relationship. One commenter specifically did not want clarification. A number of commenters requested that the final rule clarify what sources, such as state laws or regulations credit union may use as a reference to determine other family recognized relationships, as well as who does the recognizing—the credit union, the credit union's sponsor, or the state where the credit union is located.

Forty-nine commenters stated that the immediate family member should be able to join, even if the primary member has not joined. Most of these commenters stated that this interpretation is permitted by CUMAA. Thirty-nine commenters requested that credit unions have the ability to adopt a more restrictive definition. Three commenters requested that NCUA provide guidance as to what procedures, if any, credit unions need to follow to conform to the new immediate family member definition.

NCUA Board Analysis and Decision on Immediate Family Member or Household

In initially addressing the issue of immediate family member or household, the Board combined the eligibility requirements for the immediate family and household members into one inclusive definition based on traditional relationships of blood, marriage or other recognized family relationship. Within a household, any person related by blood, marriage or other recognized family relationship would qualify. Outside the household, which included those family relationships not living in the same residence, the Board proposed that the immediate family member relationship would be limited to a spouse, child, sibling, parent, grandparent or grandchild.

The initial proposed definition was narrowly construed by the Board. The Board considered the fact that the statute specifically states that ''[n]o individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union'' unless the individual is ''a member of the immediate family or household.'' For that reason, the Board required that, except for the immediate family member of the primary member, the ability of an immediate family member to join be based on that person's immediate family member having joined, as opposed to simply being eligible to join. In other words, before an immediate family member of a member's child could join, the child would first have to join the credit union.

In proposing the definition of immediate family member, the Board took notice of the fact that Congress intended some limitation of the definition of family member since it defined that term with the qualifier ''immediate.'' Accordingly, an open-ended definition of family member would not be consistent with the statutory language and, therefore, was deemed inappropriate. A definition that included any family member related by blood or marriage was considered unduly expansive. Consequently, the proposed definition followed a more narrow meaning of immediate family member as applied to fields of membership and the common bond concept.

Many commenters, however, took strong issue with the Board's proposed definition and approach to defining immediate family member. In consideration of those comments, the Board is adopting a modified definition which, while being more expansive than the proposed definition, retains the essential requirement that the definition cannot be defined by the credit union. After again reviewing the statutory language, the Board has determined that membership eligibility based on family relationships or household should be segregated and defined separately. The proposed definition of ''immediate family member'' is retained. That is, immediate family member eligibility is limited to a spouse, child, sibling, parent, grandparent or grandchild if not living in the same residence. Stepchildren, stepparents, stepsiblings and adopted children, as previously proposed and intended, are included in this definition. Once an immediate family member joins, then that person's immediate family would be eligible to join.

Household is defined as persons living in the same residence and who maintain a single economic unit. Included in this definition is any person who is a permanent member of and participates in the maintenance of the household. For example, two people sharing an apartment would be considered a household. In turn, the immediate family member of each member of the household who joins could also join because eligibility is then tied to the member. However, a fraternity, sorority, or condominium complex would not be considered a single economic unit. Individual residences in a condominium or apartment complex would qualify as a single economic unit. The definition of household contemplates or intends some permanency and not simply someone who is visiting for a short period. Domestic partners would be included in the household definition, since they share a residence and qualify as a single economic unit, as would anyone who lives in the household and demonstrate a degree of permanency. Legal guardian relationships are considered part of the household definition.

CUMAA does not permit NCUA to grandfather existing definitions or allow credit unions to define ''immediate family or household.'' CUMAA requires NCUA to define ''immediate family or household and although a credit union can adopt a more restrictive definition than NCUA's, it cannot establish a more expansive definition. The flexibility to adopt a more restrictive definition results from potential operational concerns. For example, a sponsor may restrict accessibility to the credit union office located on the sponsor's property.

Unless a federal credit union adopts a more restrictive definition of an ''immediate family or household'' through a board policy, NCUA's definition will automatically apply. That is, absent a board of directors' policy stating otherwise, a credit union may use NCUA's definition without taking any other action. However, a credit union should update its bylaws to

delete its prior definition of immediate family member. The Board believes that its definition of ''immediate family member or household'' is reasonable, and judging from the commenters, more restrictive than the definition used by many credit unions.

The proposal did not explicitly address whether the primary member must first join the credit union before the immediate family member can join. NCUA's intent was that the primary member need not join before the immediate member joins. Thus, the final rule sets forth NCUA's long-standing policy that the immediate family or household member may join the credit union even if the eligible primary member has not joined. However, once the primary member leaves the field of membership, the individual's immediate family or household members are no longer eligible to join through that person.

F. Section-by-Section Analysis

I. Chapter 1 of the Chartering Manual

Chapter 1 set forth the goals of NCUA's chartering policy and the requirements and procedures for chartering a new federal credit union. One commenter stated that NCUA should have an additional goal ''to support the continuing success of existing credit unions.'' The Board is not specifically stating this as a chartering goal since it is already part of NCUA's continuing regulatory mission. One commenter recommended that NCUA state an additional goal to preserve and foster the cooperative nature of credit unions. Likewise, the Board does not need to explicitly state this goal since it is inherently part of the credit union system.

Chapter 1 encouraged the formation of newly chartered federal credit unions and the use of mentor relationships with existing, well-managed credit unions. The Board stated that experienced credit unions are a valuable resource to newly chartered credit unions and can provide needed guidance and assistance. Forty-one commenters expressed support for credit unions mentoring new credit unions. One commenter opposed mentoring relationships. Three commenters stated that NCUA should state that mentoring is not required. Three commenters stated that NCUA should provide incentives for credit unions to engage in mentoring relationships. The Board, in the final regulation, continues to encourage mentoring relationships. However, mentoring is not a regulatory requirement. The main incentive for mentoring is the cooperative nature of credit unions and the social benefit of a healthy credit union system.

On the issue of name selection, the proposal stated that the word ''community'' can only be included in the name of federal credit unions that have been granted a community charter. One commenter opposed this limitation. The Board has revisited this issue and will grandfather existing non-community charters with the word ''community'' in their names. However, to avoid confusion, NCUA will not grant a new charter or a name change with the word ''community'' in the name, unless the credit union is a community charter.

Chapter 1 also set forth the various field of membership designations available to prospective and existing credit unions. These designations included single occupational, single associational, multiple common bond, or community. Four commenters asked how an existing credit union obtains a charter type designation. Two commenters requested that the credit union be allowed to make its own designation. One commenter requested that a credit union not immediately make a designation, but be provided some latitude until its next examination or when it requests a charter amendment. The Board encourages credit unions to review their charters to determine which designation is most appropriate. NCUA will provide a designation for a credit union when the credit union asks for its first charter expansion under this policy, or upon request by the credit union. If a credit union is unsure of its designation it should contact the regional office. If a credit union disagrees with the designation approved by the region, the credit union can appeal the decision to the Board.

Finally, this chapter sets forth NCUA's long-standing policy prohibiting the establishment of a federal credit union for the primary purpose of serving the citizens of a foreign nation. The Board stated that federal credit unions are permitted to serve foreign nationals within the field of membership when they reside or work in the United States and that foreign nationals may also be served if they reside in a foreign country, but only when the primary purpose of the credit union's foreign service facility is to serve United States citizens who are credit union members residing in the foreign country. Five commenters disagreed with this policy. They believe federal credit unions should be able to serve foreign nationals from the United States who are within their field of membership, even if the foreign national has never resided in the United States. The Board finds these comments persuasive. The Board is retaining its policy of limiting branches outside the United States to locations on U.S. military installations or in U.S. embassies. However, the Board believes that a credit union should be able to serve its entire field of membership no matter where the individual resides. Although there is no legal restriction on such service, there are often legitimate safety and soundness concerns when a federal credit union serves foreign nationals outside the United States. For this reason, the Board is requiring that a federal credit union, wishing to serve foreign nationals within its field of membership and who have never resided in the United States, obtain written approval from the regional director. The credit union will address in its business plan the loan quality, collection and collateral policies involving individuals residing outside the United States. If there are safety and soundness concerns, the regional director may restrict the services a federal credit union may provide to foreign nationals residing overseas. If a credit union is currently serving foreign nationals, they can continue such service until the regional director renders a decision. The credit union has 60 days from the effective date of the manual to send in its request to continue to serve foreign nationals.

II. Chapter 2 of the Chartering Manual

Chapter 2 set forth the field of membership requirements for a federal credit union. This chapter was divided into the following comprehensive sections: (1) single occupational charters, (2) single associational charters, (3) multiple common bond charters, and (4) community charters.

Twelve commenters believed that an occupational group and associational group can be included in a single common bond credit union. One of these commenters believed that the final regulation should expressly authorize that individuals with a common employer can rely on that mutuality of outlook to join the same credit union as individuals belonging to an association which is derived from that employment. One commenter stated that the regulation inconsistently uses the term ''group.'' This commenter stated that, since a single common bond credit union consists of one group, then if NCUA is addressing a subset of a common bond group it should refer to that entity as a subgroup. Eight commenters believed that multiple common bond credit unions should be able to have common bond additions for each group in the credit union's field of

membership. For example, the commenters would argue that, if a multiple common bond credit union has an occupational group in New York in its field of membership and wishes to add a division of that occupational group located in California, then the select group criteria do not apply.

The Board believes that a credit union consisting of an occupational group and a closely tied associational group should be treated as a multiple common bond credit union. Any other interpretation would appear to violate the intent of CUMAA which defines a single common bond credit union as ''one group that has a common bond of occupation or association.'' The Board's intent is that any expansion of a multiple common bond credit union must comply with the multiple common bond rules. It is not intended that a group that has a common bond with a group in a multiple common bond credit union can be added based on the common bond rules. The criteria relative to numerical limitation, reasonable proximity, economic advisability, etc., remain applicable when any new group not previously analyzed is requested to be added. For example, an occupational group with a primary potential membership of 1,000 was previously added to a multiple common bond credit union. The credit union now wants to add all the subsidiaries of the occupational group. In order to add the subsidiaries, they must be independently evaluated to determine compliance with the multiple common bond criteria. Finally, multiple common bond credit unions will not be allowed to circumvent the multiple common bond requirements by repeatedly and methodically adding separate groups within the same common bond.

a. Single Occupational Common Bond Credit Union

The Board proposed that a federal credit union may include in a single occupational common bond all persons and entities who share that common bond without regard to geographic location. The Board stated that eligibility for membership in an occupational common bond can be established in four ways:

- Employment (or a long-term contractual relationship equivalent to employment) in a single corporation or other legal entity makes that person part of an occupational common bond of employees of the entity;
- Employment in a corporation or other legal entity with an ownership interest of not less than 10 percent in or by another legal entity makes that person part of an occupational common bond of employees of the two legal entities;
- Employment in a corporation or other legal entity which is related to another legal entity (such as a company under contract and possessing a strong dependency relationship with another company) makes that person part of an occupational common bond of employees of the two entities; or
- Employment or attendance at a school.

Thirteen commenters were satisfied with an ownership interest of 10 percent. Sixteen commenters recommended the ownership interest should be reduced from 10 percent to 5 percent. Six commenters stated that there should be no limits on ownership interest. The Board is retaining the 10 percent ownership interest requirement. There are other federal regulations setting forth 10 percent ownership as a rationale presumption for control of another entity. For example, the Federal Reserve Board presumes that when one company owns 10 percent of the voting securities of a state member bank or bank holding company, the 10 percent ownership constitutes the acquisition of control under the Bank Control Act. 12 CFR Section 225.41(c)(2).

Thirty-three commenters suggested that NCUA's approach to occupational common bond cover other possible relationships among corporations such as franchise relationships. Five commenters opposed including franchisee relationships as part of an occupational common bond. Franchise relationships may be part of an occupational common bond depending on whether there is any contractual or dependency relationship with the occupational group. However, this test is fact specific so NCUA cannot set forth a general rule that all franchises are part of a single occupational group.

Thirty-one commenters recommended that NCUA's approach to common bond include other types of common bonds, such as all schools in an area, or all health care facilities, or public safety employees and one of these commenters stated that these common bond groups be specifically named in the credit union's charter. A majority of these commenters stated that NCUA should be more flexible in defining an occupational common bond. For example, one commenter requested that occupational groups such as electricians, plumbers, and taxicab drivers should be defined as an occupational group. Seven commenters opposed expanding the occupational common bond to include all schools in the area, or all health care facilities or public safety employees. It appeared that a majority of these commenters requested that NCUA establish a policy that was first promulgated in IRPS 96–2. That policy recognized a fourth definition of occupational common bond based on a trade, industry or profession (''TIP'').

In First National Bank and Trust Co., et al. v. *NCUA*, the U.S. Court of Appeals for the District of Columbia Circuit recognized that in some respects NCUA's chartering and field of membership policies may be more restrictive than required by the FCUA. That is, NCUA may identify and approve interpretations that provide broader common bonds than presently permitted. Moreover, given the Court of Appeals determination that the mere element of ''resemblance or common characteristic'' in the definition of groups is the equivalent of a common bond, NCUA clearly has very broad discretion in defining what constitutes a common bond for purposes of federal credit union membership.

CUMAA defines a single common bond credit union as ''one group that has a common bond of occupation or association.'' While the term ''occupation'' is consistent with the Court of Appeals finding, for the purposes of this rule, the Board has decided to again adopt a definition that is more restrictive than that permitted by statute. For the most part, a single occupational credit union is based on employment and any contractual, ownership and dependency relationships to that employment. The decision to not propose a TIP policy is based on operational concerns and the fact that when credit unions were allowed to expand using multiple common bond policies it did not appear that a broader definition was necessary. However, while the Board is not adopting a TIP definition of occupational common bond at this time, the Board's view is that such a policy is legal and may again be proposed after evaluating the impact and effectiveness of the current multiple common bond policy.

One commenter stated that employees and students at a school do not share an occupational common bond. Three commenters stated the occupational common bond for a school should be expanded to include multiple schools. Although the Board believes that employees and students at a school clearly share the same common bond, it does not believe the same is true for multiple schools. Each school is separately organized and chartered and the employees and students at one school may not necessarily share the

same common bond with another school. For example, the employees and students at the University of Buffalo do not share a common bond with the employees and students at the University of Texas. However, employees in schools supervised by the same school district or board of education may share an occupational common bond.

Two commenters requested that a group that has a contractual relationship with an occupational group be considered part of one occupational group. One commenter stated that government contractors of government agencies should be considered part of the occupational common bond. The Board, as stated above, permits contractors to be part of a single occupational common bond provided they have a contractual and strong dependency relationship with the group.

Five commenters requested that the tenants of individual parks, shopping malls and office complexes and their employees should be considered to have a common bond of employment. NCUA cannot define an occupational common bond based on location—it must be based on the statutory requirement of occupation. Therefore, the final rule does not include this type of occupational common bond. However, industrial parks, shopping malls, etc., may qualify as a community charter.

A few commenters questioned whether a single occupational common bond credit union, after adding one new group, could still serve its sponsor group outside the service area. The Board believes the credit union can continue to serve its sponsor group outside the service area. However, the credit union then becomes a multiple common bond credit union and service area requirements apply to any new groups the credit union wishes to add.

A number of commenters objected to providing a geographical description for single occupational common bond credit unions. NCUA has historically provided a geographic definition for single occupational common bond credit unions because more than one credit union may be serving different divisions of the same company. Additionally, overlap concerns, other than incidental overlaps, still must be resolved. While there are no geographical limitations for federal credit unions, a federal credit union must still specify its geographic definition, which can be located throughout the United States.

Occupational Common Bond Amendments. The proposed rule set forth when NCUA would approve an amendment to expand a credit union's field of membership. Specifically, the Board addressed the situation where the sponsor organization is involved in a corporate restructuring. The Board stated that a credit union could continue to provide service to a group that is spun-off only if it otherwise qualifies as part of the single occupational common bond, or if the credit union converts to a multiple common bond credit union. Six commenters stated that, if a business sells or spins off an operating unit or subsidiary, both current and future employees of the operating unit or subsidiary should remain eligible for membership in the occupational credit union without having to convert to a multiple common bond credit union. The Board does not find these comments persuasive. If a company spins off a group that the credit union was serving, the credit union will be able to continue to serve the group if the credit union converts to a multiple common bond charter. If the credit union wishes to expand, it must follow the multiple common bond expansion policies.

The Board set forth a second instance requiring an amendment when the entire field of membership is acquired by another corporation. The credit union can serve the employees of the new corporation, including any subsidiaries of the acquiring corporation, after receiving NCUA approval. The Board stated that, in this instance, the credit union remains a single common bond credit union.

One commenter opposed a conversion process if a single common bond credit union wishes to become a multiple common bond credit union. This commenter believed that, if a credit union added an unlike group to its field of membership the credit union has converted to a multiple common bond credit union. The Board believes that a credit union that wants to serve multiple common bonds should formally convert its charter. Accordingly, the final regulation sets forth this process.

b. Single Associational Common Bond Credit Union

The proposal set forth the definition of associational common bond. The Board stated that an associational common bond consists of individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests. This would permit an associational common bond to include members of the association, groups which are not comprised primarily of natural person members but are members of the association, and employees of the association, as well as the association. The proposal also stated that an associational charter may be granted without regard to the geographic location of the association's members or headquarters. This means a credit union could serve a widely dispersed membership base if NCUA determines that it has the ability to serve the area.

One commenter requested that public housing residents be treated as an associational common bond. Public housing residents, who simply are in the same location, do not meet NCUA's associational common bond requirements. Public housing residents must be part of a bona fide association to be considered an associational group.

The Board also stated that associations based primarily on a client-customer relationship would not meet associational common bond requirements. For example, members of an automobile club, such as the American Automobile Association, which primarily sells services, would not qualify as an associational common bond. The Board is adopting this policy in the final regulation.

The Board further stated that the alumni of a school must first join the alumni association, and not merely be alumni of the school to be eligible for membership. One commenter objected to this provision because in some schools the graduates are automatically members of the alumni association. If an alumnus is automatically a member of the alumni association because the individual graduated from that college, then the person is considered part of the associational common bond. However, in most cases, the person must satisfy membership requirements of the alumni association, such as paying dues or participate in alumni activities, to be eligible for credit union membership based on an associational common bond. One commenter stated that an alumni group and a college group share the same associational common bond. The Board disagrees. The interests of the alumni association and the interests of the students at the university are often divergent.

Finally, the Board stated that, if an association subsequently changes its bylaws, the credit union cannot serve the new members of the association until NCUA approves the revised charter and bylaws through a field of membership amendment. The Board is adopting this policy in the final regulation.

Corporate Restructuring. Due to a corporate restructuring of a select group,

a credit union may be required to request an amendment to its field of membership if it wishes to continue to provide service to that group. The Board proposed to permit an associational credit union to continue to serve the group if it was still part of the associational common bond or the credit union converts to a multiple common bond credit union. Three commenters stated that the associational credit union should be able to continue to serve the group regardless of common bond requirements. The Board does not find these comments persuasive. If an association spins off a group that the credit union was serving, the credit union will be able to continue to serve the group if the credit union converts to a multiple common bond charter. If the credit union wishes to expand, it must follow the multiple common bond expansion policies.

One commenter stated that, if an associational common bond spun-off part of the association, the final rule should clarify that relatives of existing members of the credit union belonging to the sold or spun-off group could continue to be eligible for membership in the credit union. Immediate family members of existing credit union members are still eligible for membership even if the group is no longer in the credit union's field of membership provided that the credit union does not further restrict family member eligibility. This rationale has universal application to all charter types.

c. Multiple Common Bond Credit Union

Five Statutory Criteria. Before a credit union can add a new occupational or associational select group, NCUA must determine in writing that five statutory criteria have been met. The first criterion is that the credit union did not engage in any unsafe or unsound practice which is material during the one-year period preceding the filing of the application. The Board defined an unsafe or unsound practice for this criterion to mean any action, or lack of action, which would result in an abnormal risk or loss to the credit union, its members, or the NCUSIF. The Board stated that the determination of an unsafe and unsound practice would be decided by the regional director. Two commenters requested further guidance on what is an unsafe and unsound practice. The Board's view is that additional clarification may unduly restrict the regional director's ability to properly ascertain if a safety and soundness concern exists. Obviously, what is a safety and soundness concern for one credit union may not be for another credit union because of a credit union's size, resources, management expertise, etc.

The second criterion is that the credit union is adequately capitalized. The Board defined adequately capitalized to mean the credit union has a net worth ratio of not less than 6 percent. The Board also specifically requested comment on what criteria should be considered when defining ''adequately capitalized'' for newly chartered credit unions.

Thirty-four commenters stated that they approved of the definition or that requiring a net worth of 6 percent in order to add select groups would not place an unreasonable burden on their credit unions. One commenter stated that there should be no minimum capital adequacy requirements for new or low-income credit unions wishing to expand their charters.

Twenty-five commenters opposed the definition and some of these commenters stated that requiring a net worth of 6 percent would place an unreasonable burden on credit unions. Many of these commenters stated that CUMAA does not require the 6 percent level. Two commenters stated that, if the Board determines that it is necessary to retain the 6 percent capital requirements for group additions then they encourage the Board to consider as part of its economic advisability determination whether the addition will actually raise the credit union's capital. These commenters stated that such an addition should be permitted if the expansion increases capital to at least 6 percent within a reasonable period of time. These commenters also stated that a credit union with a capital of less than 6 percent should be allowed to bring in a group as part of a sanctioned net worth restoration plan. Twelve commenters stated that adding new groups may be the best way for an undercapitalized credit union to obtain an adequate capitalization level. Three commenters stated that NCUA should be flexible in defining adequately capitalized.

In 1982, the Board decided that multiple groups could be joined together through the chartering process, amendment of the charter, or by way of merger to form a single credit union. A major reason for the policy change was to provide small groups of people, who did not have the ability to charter their own credit unions, access to credit union service. Another reason for the policy change was to assist credit unions in diversifying their fields of membership for safety and soundness reasons. The rationale applicable in 1982 remains applicable today. For that reason, the Board included in the final rule for single common bond and community credit unions the possibility that an expansion could be approved notwithstanding the credit union's financial or operational problems.

CUMAA, however, requires a different standard for multiple common bond credit unions in that it requires the credit union to be adequately capitalized before an expansion can be approved. As of June 1998, the average net worth ratio for all federal credit unions was 13.55 percent. Of the 6,907 federal credit unions, 39 percent were above the average and 61 percent were below. More importantly, only 4 percent, or 269 federal credit unions, would not now meet the 6 percent adequate capitalization requirement. It is the Board's view that a 6 percent capitalization for field of membership expansions for multiple common bond credit unions chartered more than 10 years is reasonable and establishes a standard that, while not meeting the average capitalization level of federal credit unions, is indicative of a credit union that generally is managed in a safe and sound manner. Additionally, although not required by CUMAA to set the capitalization level at 6 percent, such a percentage ties to the capitalization level established for prompt corrective action. However, the Board believes that a newly chartered multiple common bond credit union, chartered less than 10 years, or a low-income credit union, may obtain a field of membership expansion even though its capitalization level is less than 6 percent if the credit union, as determined by the regional director, is making reasonable progress toward meeting the 6 percent capitalization level.

The Board believes that a restoration capitalization plan, which was a basis for the 1982 policy and which remains operationally desirable, is not consistent with the statutory requirement in CUMAA that, before an expansion can be granted, the credit union must be adequately capitalized. A capitalization restoration plan, while operationally desirable, could essentially render the statutory requirement that the credit union be adequately capitalized meaningless. A ten-year window to obtain a capitalization level of 6 percent is reasonable, obtainable and consistent with prudent safety and soundness goals.

The third criterion is that the credit union has the administrative capability and the financial resources to serve the proposed group. To determine whether the credit union has met this criterion, the Board stated that it would review

the credit union's most recent examination report or, if necessary, contact the credit union directly. Two commenters stated that there should not be any undue requirement under this criterion for small groups. The Board simply expects a credit union adding new groups, regardless of the size of the group, to demonstrate how it will serve the group. The larger the group, the greater the burden the credit union has to show that it can serve that group. In approving new select groups, the regional director has the discretion in requesting documentation on how well the credit union is serving its current field of membership.

The fourth criterion is that the credit union must demonstrate that any potential harm the expansion may have on any other credit union and its members is clearly outweighed by the probable beneficial effect of the expansion. The Board stated that the agency will perform an overlap analysis to determine whether this criterion has been met.

Thirty-two commenters believed this test is useful. Most of these commenters believed overlaps help the consumer. Twelve commenters opposed this statutory criteria. Most of these commenters believed overlaps are good for the member. A number of these commenters requested NCUA to base decisions on potential harm on objective criteria. Twelve commenters questioned how the convenience and needs of the members will be quantified and measured. One commenter stated that if the two credit unions agree to the overlap, then NCUA should find no harm to the overlapped credit union. Some of these commenters suggested that a measurement of ''convenience and needs of the members'' should include new or expanded products/services which are not offered by the other credit union as well as increased access to the credit union through fixed service sites, mobile sites, extended service hours and 24 hour electronic media. In response to the comments regarding the measure of the convenience and needs of the members, NCUA will review the products, services and service delivery methods offered by the overlapping credit union. NCUA will measure potential harm to the overlapped credit union as a threat to its solvency. A recent NCUA study determined that overlaps, as a general rule, will not adversely affect the overlapped credit union. Therefore, in most cases, NCUA will probably find that the convenience and needs of the members will outweigh the harm to the overlapped credit union. This suggestion of probability, while not conclusive, is based on experience.

An expanding credit union has the duty to investigate whether an overlap exists. Many of the commenters that opposed the criterion did not believe the credit union should investigate whether an overlap exists. A few commenters suggested that an expanding credit union discharges this duty by asking the group whether it receives services from other credit unions. The Board agrees with these comments. As long as the expanding credit union has, in good faith, documented that the group does not have other credit union service, it will not be penalized if an overlap is discovered at some later time. However, the group may be removed from the expanding credit union's field of membership.

The fifth criterion is that NCUA must determine that the formation of a separate credit union is not practical or does not meet the economic advisability criteria. Four commenters requested more guidance on how to determine whether forming a separate credit union is practical. A few commenters suggested that when evaluating this criterion, NCUA should determine whether the independent credit unions can be full service and offer share drafts, ATM cards, etc. The Board will look at the desire of the group, the services it can provide and its economic advisability before deciding whether to allow a group with under 3,000 primary potential members to join the credit union. If the group does not wish to form its own credit union, does not have the volunteers and resources to charter a credit union, and is otherwise not economically advisable, NCUA will allow the group to join an existing credit union. Although some commenters did not believe this criterion was necessary for groups under 3,000, it is consistent with the statutory language and congressional intent. If the group is 3,000 or more primary potential members, the desire of the group, while important, must be weighed against the statutory criterion that the group cannot feasibly or reasonably establish a single common bond credit union.

One commenter asked whether NCUA has to make a formal determination on all five criteria when adding a group to a credit union's field of membership. Four commenters stated that a written determination is not always required, as in the case of ''successor'' groups. The Board believes it does not have the discretion to waive a written determination. However, in those cases where there is no overlap and the group is small, the written determination should be processed expeditiously. A ''successor'' group would not be treated as a select group expansion, rather it is treated as a housekeeping amendment and, therefore, a written determination is not necessary.

While all federal credit unions are encouraged to expand their service to underserved areas, the Board especially encourages multiple common bond credit unions that add new groups to consider service to underserved areas. The Board believes that multiple common bond credit unions are uniquely positioned, because of their service delivery systems, to provide credit union service to such areas.

3,000 Numerical Limitation. The proposal also set forth the requirements for adding a group in excess of 3,000 primary potential members to a credit union's field of membership. One commenter asked whether it is permissible to add the employees of a sponsor (which has total employees exceeding 3,000) working in a specific geographic area, if the number of employees in that area is less than 3,000 (i.e., can sponsors be segmented to meet the requirement applicable to the number of employees). Two commenters supported NCUA's interpretation of the numerical limitation. One commenter questioned whether the 3,000 number is potential new members or that the group itself has no more than 3,000 total members. The 3,000 numerical limitation is based on the current number of employees or members of the group. Five commenters stated that the wishes of the group and sponsor should be key factors for NCUA to review in making its determination as to whether a group can be added. Although NCUA agrees with these comments that these are key factors, they are not conclusive.

Three commenters opposed the statutory 3,000 numerical limitation. Some commenters requested more specific criteria on when a group of 3,000 or more would be approved as an addition to an existing multiple common bond credit union. The Board believes that such an addition is determined on a case-by-case basis consistent with the statutory requirements. NCUA will look at the size of the group (is the group 100,000 or 3,000), desires of the group, the volunteers and resources to support the efficient and effective operations of the credit union, whether the group meets the economic advisability criteria and the demographics of the group. A few commenters asked whether a letter from the CEO of the company stating that it does not wish to form a new credit union and does not have volunteers and

resources to start a new credit union is sufficient. Although such a letter is persuasive evidence, NCUA will look at the totality of the evidence surrounding the request.

Documentation Requirements. The proposal set forth the documentation requirements to add a select group and NCUA's procedures for amending the field of membership. One commenter believed that NCUA should not require a letter from an authorized representative of the group to be added. This commenter suggested that if the credit union cannot get a letter from an authorized representative that a petition from the group should be acceptable. NCUA agrees and the final rule allows the regional director to accept other documentation as appropriate.

Streamlined Procedures. Seventy-three commenters requested NCUA adopt a streamlined application program for the addition of small employee groups. Two commenters did not support a streamlined approach. Twenty commenters requested that NCUA reinstate the Streamlined Expansion Procedure (SEP). The Board cannot reinstitute SEP because CUMAA requires a written determination by NCUA before a group is added to a credit union's field of membership. Three commenters stated that groups added under SEP be included in the credit union's current charter. The Board agrees and the SEP log will be made part of the official credit union charter.

The Board has developed an expedited process for groups of 200 or less primary potential members. Although a written determination regarding the listed regulatory and statutory criteria is still required, the processing of small groups will be accomplished more expeditiously by the region through the use of the Form 4015–EZ.

Eighteen commenters requested that the regional director respond to multiple common bond expansion requests within a specific time frame. Although the Board is not setting a definitive time frame for rendering a decision, it expects the regions to make a decision expeditiously upon receipt of a completed application.

Distressed Designation. Under IRPS 94–1, a credit union could apply for a distressed designation that eliminated certain field of membership restrictions for the applicant credit union. No credit union ever applied for the designation. Two commenters requested that NCUA reinstitute the distressed designation so that a credit union could add groups regardless of location or common bond. The Board does not believe there is a need for such a policy. Additionally, the Board believes that CUMAA does not provide NCUA with the latitude to institute such a policy.

Corporate Restructuring. Due to a corporate restructuring of a select group, a credit union may be required to request an amendment to its field of membership if it wishes to continue to provide service to that group. The Board proposed to permit a multiple common bond credit union to retain in its field of membership a sold or spun-off group to which it has been providing service, without regard to location, if the original group is clearly identifiable and requests continued service. The Board stated that it views this as a housekeeping amendment and not a field of membership expansion. Eight commenters specifically supported this position. Two commenters stated that the policy should encourage a company to provide a signed letter requesting service but that it doesn't need to be a requirement. Two commenters stated that in a corporate restructuring no new overlap analysis is necessary. The Board agrees with all these comments and will treat such corporate restructuring amendment requests as a housekeeping amendment and no overlap analysis is required. Furthermore, the Board is no longer requiring a letter from the company requesting service. Finally, a name change is not a corporate restructuring, but the credit union should obtain a housekeeping amendment to update its charter.

Branching. Under IRPS 94–1, a credit union could justify a new branch by adding groups within the branch's operational area as long as a significant portion of the total number of persons to be served by the facility when it opened were from the field of membership that existed prior to adding the select groups. Although ''significant portion'' of the field of membership was not defined, the intent behind the policy was not to encourage federal credit unions to establish branches simply for the purpose of adding groups. In practice, NCUA viewed as few as 300 members to be a significant portion of the field of membership for the purpose of branching. NCUA's current proposal does not have any limitations on when and where a credit union could branch. Hypothetically, a multiple common bond credit union could branch in an area where it has no current members. One commenter disagreed with this provision and stated credit unions can only branch where they have existing members. Seven commenters requested that NCUA allow groups to be added to a credit union's field of membership before they even establish a service facility in the area. Although the Board does not have many restrictions on branching, the Board does not agree with these commenters. The Board's view is that CUMAA requires a service facility be established before a credit union adds a group not currently within its service area. Groups cannot be added in anticipation that a service facility will be established. That is, a credit union that intends to expand into a geographical area not currently served by the credit union, must first establish a service facility. Once the service facility is established, then the credit union can add groups that are within the service area of that service facility.

Conversions. The proposal stated that a multiple common bond federal credit union may apply to convert to another type of charter provided the field of membership requirements of the new charter type are met. Groups that do not qualify in the new charter type cannot be served, only members of record from those groups. Furthermore, the Board has established a process for multiple common bond credit unions converting to single common bond credit unions. One such requirement would not permit the credit union to convert to another type of charter, except a community charter, for 3 years after approval, unless the regional director determines that a charter conversion is necessary to resolve safety and soundness concerns. Additionally, the credit union must notify the groups that will no longer be served. This notification requirement also applies to single common bond credit unions converting to community charters. Community credit unions converting to single or multiple common bond charters are exempt from the notification requirements.

One commenter suggested that groups acquired through an emergency merger can continue to be served after the charter is converted. The Board agrees and the final regulation exempts groups or communities that were acquired through an emergency merger or purchase and assumption agreements.

d. Community Charters

CUMAA requires that a community charter be based on ''a well-defined local community, neighborhood, or rural district.'' The Board set forth the following requirements for a community charter:

- The geographic area's boundaries must be clearly defined;
- The charter applicant must establish that the area is a well-defined ''local community, neighborhood, or rural district;'' and
- The residents must have common interests or interact.

The Board proposed that ''well-defined'' means the proposed area has specific geographic boundaries. The Board also stated that a ''local community, neighborhood, or rural district'' encompasses several factors including interaction and/or common interests. Although the proposal did not precisely define interaction or common interests, it did suggest that a greater burden needs to be met when either the geographic size or the population of the area is large. The Board stated that in determining interaction and/or common interests, a number of factors become relevant. For example, the existence of a single major trade area, shared governmental facilities, local festivals, area newspapers, among others, would be significant indicia of community interaction and/or common interests. Conversely, an area which has numerous trade areas, multiple taxing authorities, or multiple political jurisdictions would tend to diminish the factors that demonstrate the existence of a local community, neighborhood or rural district.

Comments. It was clear that many of the commenters confused the standard community chartering policy with the requirements for a streamlined approach to obtaining a community charter. Thirty-five commenters stated that NCUA's approach to the definition of ''local community'' provides sufficient guidance for credit unions that might be seeking a community charter. Seven commenters specifically approved of the requirement that the residents of the proposed community either interact or have common interests. One commenter requested further standards for interaction. One commenter opposed the interaction and common interest standards. One commenter stated that the interaction requirement does not take into account sparsely populated rural areas. One commenter encouraged the Board to strengthen the language in the final rule that concentrates on interaction and confluence of interest within an area as the most important test of whether the requirements for a community have been met, rather than the size of any particular area. A number of commenters provided suggested definitions for a local community.

Six commenters stated that NCUA's community policy should be flexible for sparsely populated areas. For example, these commenters stated that a rural multiple-county area should be considered a local community. Two commenters stated that the definition needs to be flexible when drawing the boundaries of a well-defined community. A few commenters suggested that the Board should recognize that what constitutes a community in California might be significantly different from what constitutes a community in South Carolina or Alaska.

Thirteen commenters disagreed with NCUA's approach to the definition of ''local community.'' Five commenters stated the definition is too restrictive. Four commenters stated NCUA's definition of local community needs to be more specific. Three commenters stated that large metropolitan cities should be considered as local communities. One commenter stated that a state might qualify as a local community. Two commenters stated that multiple counties should not constitute a local community.

NCUA Board Analysis and Decision on Community Charters. CUMAA modified NCUA's community chartering policy. It requires that a community charter be based on ''a well-defined local community, neighborhood, or rural district.'' Although Congress did not provide specific guidance on what constituted a ''local community, neighborhood or rural district,'' the Board concluded that the addition of the word ''local'' to the previous statutory language was intended as a limiting factor and that additional clarification was required relative to what would qualify as a community charter. The Board further concluded that a more circumspect and restricted approach to chartering community credit unions appeared to be the congressional intent. Accordingly, recognizing that ''local'' was a limiting factor, NCUA staff reviewed those community charter applications approved by the Board in the last three years in an effort to more narrowly define what will constitute a community charter based not only on operational feasibility, but also historical data that tended to support whether a particular well-defined area would qualify as a local community, neighborhood or rural district.

Although the proposal did not completely define interaction or common interests, the Board stated that in determining interaction and/or common interests, a number of factors, are relevant. The Board continues to believe those factors remain valid. These factors are limiting in the sense that they clearly require a community charter applicant proposing to serve multiple trade areas, etc., to demonstrate more definitively how it meets the local requirement. The Board believes that increased documentation requirements need to be met when either the geographic size or the population of the area is large.

The Board stated that, in general, a large population in a small geographic area or a small population in a large geographic area, may meet community chartering requirements. Conversely, the Board stated that a large population in a large geographic area will not normally meet community chartering requirements. In so doing, however, the Board has not summarily dismissed or prejudged any potential application. While an area with a large population may require additional documentation, it still may meet the definition of a local community. Similarly, multiple counties, particularly in rural areas, may qualify for a community charter.

One commenter stated, ''[t]herefore, no geographic size area and no population size is ruled out—all are fair game, subject only to NCUA's discretion. So, effectively, there is *no* geographic or population size limitation for the chartering of community credit unions in the NCUA proposal.'' The commenter correctly interpreted the proposal relative to geographic and size limitations, but failed to acknowledge the overriding requirement that, regardless of the size, the proposed community area must meet the ''local'' standard that Congress directed NCUA to develop. NCUA's responsibility is to review community charter applications to ensure this statutory requirement is satisfied. Accordingly, the Board believes the proposed definition properly incorporates the congressional intent with the need to provide opportunities for community charters. Except for the addition of some clarifying language, the Board is adopting the proposed policy in final.

Two commenters asked if multiple but separate, well-defined areas could comprise a local community charter. This is not statutorily permitted. The entire area must be a single well-defined location. Two, noncontiguous, well-defined areas cannot be the basis for a community charter.

The Board also stated that a low-income area meeting the low-income definition found in Section 701.34 of NCUA's Regulations has many of the common characteristics and demographics of a local community, and generally lacks the basic financial services found in more affluent communities. 12 CFR 701.34. The Board proposed that, when reviewing low-income community charter applications, NCUA's documentation requirements would be more flexible and fewer documentation requirements would be required than for a standard community charter package. There was no significant objection to this provision.

The Board is adopting this proposal in the final regulation.

Presumptive Community. The Board also proposed a streamlined community chartering process for a well-defined local community, neighborhood, or rural district where the area to be served is a recognized political jurisdiction, not greater than a county or its equivalent, and the population of the requested well-defined area does not exceed 300,000. The Board stated that, generally, the single jurisdiction will most often coincide with a county, or its political equivalent. Multiple contiguous smaller political subdivisions within a county or its equivalent, such as a city, township or a school district, would also qualify under this proposal. The Board proposed that for this type of community charter, the applicant must only submit a letter demonstrating how the area meets the indicia for community interaction or common interests. In addition, the applicant would have to provide evidence of the political jurisdiction and size of the population.

The Board further stated that, at its discretion, NCUA may request more documentation demonstrating the area is a well-defined local community, neighborhood, or rural district. If the requested area is not a single political jurisdiction or exceeds 300,000, more detailed documentation would have to be provided to support that the proposed area is a well-defined local community, neighborhood or rural district. The Board also stated that community charters were not limited to a recognized single political jurisdiction, or to a proposed area where the population is 300,000 or less. Simply, additional documentation, as required for standard community charters, would be required if the proposed community charter exceeds an area greater than a county or 300,000 in population. In other words, the definition of local community may include not only those that qualify under the presumptive factor, but also other local well-defined areas meeting the community charter requirements. The Board specifically requested comment as to whether a streamlined approach for community charter approval is appropriate and, if so, in accordance with what criteria.

Comments. As stated earlier, many commenters confused the presumptive community with the standard community chartering policies. Again, a local community is not limited to a single political jurisdiction with a population of 300,000 or less.

Thirty-eight commenters approved of the limited documentation requirements for community charter applications that are within a single political jurisdiction and have 300,000 or less in population. One commenter stated that the size of the population should not matter and that the streamlined procedure should be available for any community charter request that does not exceed a single political jurisdiction not larger than a county or its political equivalent. Nineteen commenters suggested that other types of communities should also have limited documentation requirements, with many of these commenters stating that multiple counties should also be a part of the streamlined documentation requirements. Two commenters stated, that if the community consists of multiple counties, then NCUA should lower the population requirements.

Six commenters suggested a higher population threshold. One commenter suggested that the population size be increased to 500,000. Two commenters suggested that the population size be increased to one million. One commenter stated that the population size should be up to one million and include multiple counties. Six commenters would eliminate any population size. Sixteen commenters generally disapproved of the streamlined approach as proposed. Two of these commenters stated that the population size and political jurisdiction should simply be taken into account when considering the application but should not be the deciding factors. Some commenters were opposed to the 300,000 limit for a streamlined approach either because the number was too large or too small.

One commenter wondered whether it was a concern if the proposed community area was located in two different states. It depends on the facts but, conceptually, a community could cross political jurisdictional boundaries and still qualify for the streamlined approach. For example, a town that is in parts of two counties and has a population 300,000 or less would qualify for the streamlined approach.

NCUA Board Analysis and Decision on Presumptive Community. The NCUA Board is adopting the presumptive community as initially proposed. Additionally, the Board is adopting a second method based on multiple contiguous counties or multiple political subdivisions thereof with a lesser population threshold by which a presumptive community can be established. As to the initial proposal, the Board is limiting the streamlined approach to communities contained in a single political jurisdiction where the population does not exceed 300,000. The Board is not raising the population threshold because experience has demonstrated that a single political jurisdiction of this size, or less, has the normal indicia for community chartering.

Relative to the second method, the Board is also of the opinion that multiple contiguous counties, or multiple political subdivisions thereof, will most likely have the normal indicia for community chartering, particularly in rural localities, if the population of the well defined area does not exceed 200,000. In both instances the presumption is rebuttable, and the regional directors may require additional evidence to support the local community, neighborhood or rural district criteria. The Board may revisit this issue in the future if more experience with larger communities is obtained by NCUA.

In setting forth the example of a ''county'' with a population of 300,000 or less as a presumptive community, the Board was simply providing guidance and setting a maximum geographic limit for the streamlined process. A state or a congressional district would not qualify for a presumptive community. However, for purposes of the streamlined approach, a political jurisdiction that is less than a county would qualify. For example, a municipality or a city would qualify as a single political jurisdiction for the streamlined approach if the population of the municipality or city does not exceed 300,000.

Some commenters asked for NCUA's rationale for establishing the presumptive community at 300,000. The Board's rationale for this number is based on the Board's review of its historical actions in granting community charters. In every case where the community was 300,000 or less and contained in a single political jurisdiction, the Board found that the particular area would qualify as a local community, neighborhood or rural district.

Credit Unions Converting to Community Charters. The Board stated that a credit union converting to a community charter must contact all federally insured credit unions in the area regarding the potential overlap. A few commenters requested that this requirement be eliminated due to the burden placed on the community credit union. The Board agrees, and it is no longer required.

The Board stated that a credit union that converts to a community charter may continue to serve existing members

of the credit union who are not within the community, under the statutory provision that once a person becomes a credit union member, he or she can remain a member. However, the Board stated that a community credit union would not be able to add new members from those groups in the previous field of membership that are outside the community boundaries or add new groups outside the community boundaries. Members of record, outside the community boundaries, could still be served by the community charter. Three commenters approved of NCUA's position. Twenty commenters requested that all groups outside the community boundary should continue to be served by the community credit union. Two commenters requested that, in a conversion to a community charter, NCUA permit the credit union to continue to serve its original sponsor even if the original sponsor is outside the community boundaries. The Board believes that when a credit union converts to a community charter it should serve the community and not select groups. Serving groups outside the community boundaries is not indicative of a community charter. The only exception is for groups obtained through an emergency merger or emergency purchase and assumption. The grandfather provision in CUMAA is not applicable since the credit union has changed its charter type.

The proposed rule on community charters specified that ''[c]ommunity credit unions will be expected to follow, to the fullest extent economically possible, the marketing and/or business plan submitted with their application. The community credit union will be expected to regularly review its business plan as well as membership and loan penetration rates throughout the community to determine if the entire community is being adequately served.'' Four commenters believed this requirement is reasonable. Six commenters stated that, in reviewing a community credit union's business plan, NCUA should consider the credit union's good faith efforts to comply with its plan and not just focus on the extent to which the credit union is achieving the plan. Thirteen commenters strongly objected to the inclusion of this language, particularly the reference to membership and loan penetration rates. It is their position that the language would impose Community Reinvestment Act (CRA) standards, and that Congress clearly has had no such intent. When this language was first developed in 1997, it was not the intent to impose CRA standards. The intent was to simply outline the expectation that community charters are chartered to serve the entire community, just like any other charter type should attempt to serve their field of membership, and not a portion of the approved well-defined area, and that the business plans should reflect this goal. That is the nature of a community charter. Finally, with respect to the proposed language, it was never intended that additional examination or supervisory controls would be required. At the time this language was under consideration, there was considerable evidence that the number of community charter applications would increase due to the adverse court rulings. Again, the objective was to reiterate that community charters should make every effort to serve the community, and not just those groups already in the converting credit union's field of membership. However, to further clarify the Board's position, the Board has modified the language to read as follows: ''Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plan submitted with their application.''

Mergers. The proposal stated that a community credit union cannot merge into a multiple common bond credit union except in an emergency merger. Three commenters stated that a community charter should be allowed to merge with a multiple common bond credit union. It remains the Board's view that community charters should not be allowed to merge into multiple common bond charters, absent emergency merger criteria. If a multiple common bond credit union merges into a community charter, the community charter may only serve new members of groups that are located within the community charter boundaries. Of course, the continuing credit union can retain members of record under the ''once a member, always a member'' policy.

Applications In Process. The Board has determined that all community charter applications that were submitted prior to August 7, 1998, and are still outstanding, must be finally submitted with all required documentation to the regions by June 30, 1999, in order to be processed pursuant to the community policies set forth in IRPS 94–1. If a completed community charter application package is not received by the regions by June 30, 1999, then it will be necessary to process the application consistent with IRPS 99–1.

e. Changes Applicable to All Federal Credit Unions

Removal of Groups. The proposal set forth the procedures for a credit union, with NCUA approval, to remove groups from a credit union's field of membership. One commenter stated that this section needed to be clarified so that, if a group is removed from a credit union's field of membership, current members retain membership. The Board agrees. If a group is removed from a credit union's field of membership, current members retain membership under the ''once a member, always a member'' policy. This rationale applies to all charter types.

Appeal Procedures. The regulation sets forth certain appeal procedures. Unless the credit union is requesting reconsideration, it has 60 days to appeal a denial. One commenter requested 90 days to appeal and 60 days to provide supplemental information in a reconsideration. Two commenters asked how long NCUA has to respond to an appeal and one of these commenters stated that the appeal process favors NCUA.

The Board believes that a 60-day time frame gives the credit union sufficient time to appeal the region's determination. The Board's recent experience leads it to believe flexibility is necessary in deciding appeals. Although the appealing credit union may want an expeditious decision, most importantly, it wants a correct decision. The Board, therefore, is not setting a definitive time frame for rendering a decision on appeal, but will attempt to notify the appellant any time a decision cannot be reached within 90 days. The Board is cognizant of the need for an appellant to receive a decision as soon as reasonably possible. Accordingly, every effort will be made to expeditiously process and consider all appeals.

In general, credit unions can appeal adverse decisions by the regional director, including decisions regarding exclusionary clauses. Except for this modification regarding exclusionary clauses, the Board is adopting the proposal in final.

Emergency Mergers. The Board issued clarifying language regarding emergency mergers and purchase and assumption agreements for occupational, associational and community charters. Among other minor modifications, the Board proposed to remove the 12 month period within which insolvency must occur, since it is not required by the FCUA. One commenter approved of this entire provision. One commenter approved of the removal of the 12

month insolvency period. One commenter requested that a multiple common bond or single common bond credit union that takes in a community area as the result of an emergency merger or purchase and assumption should be able to expand the community portion of its charter. The Board disagrees with this suggestion and is adopting a policy that community fields of membership acquired through emergency mergers cannot be the basis of an expansion since the character of the acquiring credit union has not changed. The Board is adopting the proposed emergency merger provisions in final and would like to emphasize that, in the coming year, consistent with legal advice, credit unions not making acceptable progress in becoming Y2K compliant may be determined to have serious and persistent operational problems requiring expeditious action.

Once a Member Always a Member. CUMAA permits any person or organization, who is a member of any federal credit union at the date of enactment, unless expelled under Section 118 of the FCUA, to maintain membership in the credit union. This provision codifies the ''once a member, always a member'' policy. The Act also permits a member, or subsequent new member, of any group whose members constituted a portion of the membership of any federal credit union at the date of enactment, to continue to be eligible for membership in the credit union. For example, an employee of a select group who was eligible for membership prior to August 7, 1998, but did not join the credit union, is still eligible to join the credit union. This also applies to new employees hired subsequent to the date of enactment. Twelve commenters approved of the ''once a member, always a member'' policy.

Twenty-five commenters disapproved of the proposed ''once a member, always a member'' policy. Several commenters discussed the practice of some larger corporations, which provide sizable support for their employee's credit union, and view membership in the credit union as a company benefit. In other words, if an employee leaves the employ of the company, the credit union also terminates the individual's membership. These commenters believed CUMAA would allow continuation of this practice. The observation was made that a credit union should be able to divest members that have left the employment of the sponsor if that is what the sponsor desires. The Board does not concur with this observation. The Board's view is that Congress established a permanent membership relationship with the credit union, and unless a member is expelled under the provisions of Section 118 in this Act, membership cannot be unilaterally terminated by the credit union. However, the commenters raise a legitimate operational concern. To address this issue, the Board determined that a credit union can limit the services to members in those situations where membership would conflict with sponsor policy and who are no longer in the field of membership. While membership is retained, the delivery of member services can be qualified. It is anticipated that this approach will adequately address the problem.

Grandfather Provision. Section 101 of CUMAA established that membership is grandfathered for persons: (1) in a single common bond credit union; and (2) in groups comprising multiple common bond credit unions as of the time of passage of the Act. It also indicates, that where the groups comprising either the single or multiple common bond credit unions are defined by any particular organization or business entity, the grandfather provisions will ''continue to apply with respect to any successor to the organization or entity.'' One commenter stated that the final rule should state that successors are automatically grandfathered and the statutory mandate is self-executing. The Board does not believe that this provision is self-executing. The regional director must still approve the housekeeping amendment in the charter. Except for documentation from the credit union explaining the new organizational structure, no further documentation will be required. However, for credit unions undergoing a charter conversion, once the charter type is converted, the protection provided by the grandfather provision no longer applies.

III. Chapter 3 of the Chartering Manual

The Board proposed a separate chapter setting forth special policies for low-income credit unions and special chartering policies for underserved areas. The Board's intent was to encourage the formation of new credit unions and the expansion of existing credit unions into underserved and low-income areas.

One commenter supported NCUA's proposals concerning the chartering of low-income credit unions. One commenter requested a new definition of low-income credit unions. The Board believes the current definition of low-income is satisfactory.

CUMAA authorizes credit union service to people of modest means. This is particularly evident with the addition of underserved areas to the field of membership of a federal credit union with the approval of NCUA. The legislation defines an underserved area as 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. A credit union adding an underserved area must establish a service facility in the area.

An investment area includes any of the following:

- An area encompassed or located in an Empowerment Zone or Enterprise Community designated under section 1391 or the Internal Revenue Code of 1996 (26 U.S.C. 1391);
- An area where the percentage of the population living in poverty is at least 20 percent and the area has significant unmet needs for loans or equity investments;
- An area in a Metropolitan Area where the median family income is at or below 80 percent of the Metropolitan Area median family income or the national Metropolitan Area median family income, whichever is greater; and the area has significant unmet needs for loans or equity investments;
- An area outside of a Metropolitan Area, where the median family income is at or below 80 percent of the statewide non-Metropolitan Area median family income or the national non-Metropolitan Area median family income, whichever is greater; and the area has significant unmet needs for loans or equity investments;
- An area where the unemployment rate is at least 1.5 times the national average and the area has significant unmet needs for loans or equity investments;
- An area where the percentage of occupied distressed housing (as indicated by lack of complete plumbing and occupancy of more than one person per room) is at least 20 percent and the area has significant unmet needs for loans or equity investments;
- An area located outside of a Metropolitan Area with a county population loss between 1980 and 1990 of at least 10 percent and the area has significant unmet needs for loans or equity investments.

Three commenters completely supported the proposal. One commenter supported NCUA's definition of an underserved area. Three commenters objected to placing a service facility in an underserved area that is added to the credit union's field of membership. The definition of an underserved area and the service facility requirement are statutory and are incorporated into the

final rule. A few commenters requested that an ATM be treated as a service facility. The legislative history of CUMAA clearly indicates that for this provision an ATM is not a service facility.

Two commenters believed NCUA should define service facility in this section to include a credit union's commitment to regular hours on a periodic basis at a local facility, such as a church or community center. The Board agrees with this comment and has incorporated it into the final regulation. One commenter requested that the Board provide an example of an area having ''significant unmet needs for loans or equity investments.'' An example of ''significant unmet needs for loans or equity investments'' is an area where there are few financial institutions or a high ratio of residents in relation to traditional financial institutions.

Although the new legislation specifically authorizes flexible policies regarding multiple common bond credit unions providing service to underserved areas, the Board has determined that previous agency policies allowing similar service to poor and disadvantaged areas should continue. Accordingly, the Board stated that the criteria established for multiple common bond credit unions would also apply to single occupational, single associational, and community credit unions desiring to serve underserved areas. Thirteen commenters approved of NCUA's decision to allow all types of credit union's to serve underserved areas. The proposal has been adopted in the final regulation.

The proposal stated that federal credit unions adding the underserved community must first develop a business plan on how it will serve the community and that NCUA would require periodic reviews on how the credit union is serving the community. Four commenters stated that to encourage credit unions to add underserved areas to their field of membership, NCUA should avoid requiring burdensome reporting requirements to credit unions attempting to service the ''underserved.'' These commenters stated that requiring loan penetration rate and other community statistical information may discourage credit unions from pursuing that important sector of the market. The Board agrees. However, the Board believes it is necessary first to have a business plan to address how financial services will be provided to an underserved areas. Although not required by regulation, the regional director may require periodic service status reports from a credit union about the underserved area to ensure that the needs of the underserved area being met as well as requiring reports before NCUA allows a federal credit union to add an additional underserved area. Although one commenter requested public hearings before adding an underserved area, the Board believes such a requirement will simply add another bureaucratic hurdle and impede service to the underserved.

One commenter questioned why a credit union that adds an underserved area cannot participate in the Community Development Revolving Loan Program (CDRLP). One commenter requested that the final rule state that a credit union that adds an underserved area cannot participate in the CDRLP. One commenter suggested that providing service to an underserved area does not equate to a low-income designation. Only a credit union with a low-income designation may participate in the CDRLP under NCUA Regulations and the FCUA. If a credit union that adds an underserved area qualifies for a low-income designation, it may apply for the designation and be entitled to the benefits of the CDRLP, and the Board encourages eligible credit unions to do so.

Chapter 3 also permitted any multiple common bond credit union to add a low-income association to its field of membership, if all members of the association meet NCUA's definition of low-income. One commenter stated that NCUA should not require that all members of this type of association be low-income. The Board disagrees with this comment. Because a low-income association has limited common bond requirements, changing its membership criteria may invite abuse and vitiate the Board's intent to allow credit unions to serve low-income people.

IV. Chapter 4 of the Chartering Manual

This chapter discusses the requirements and procedures for conversion of a state credit union to a federal credit union and conversion of a federal credit union to a state credit union. The proposed policy for charter conversions was basically the same as current policy. The major change concerned changing the credit union's name on all signs, records, accounts, investments, stationery and other documents. The proposal allowed credit unions to have 180 days from the effective date of the conversion to change its signage and promotional material. The credit union would be able to reissue, with its new name, its outstanding debit cards, ATM cards, credit cards, at the time of renewal. Share drafts with the credit union's name could be used by the member until depleted. This proposal would apply to both types of conversions, state-to-federal and federal-to-state. Under the proposal, if the state credit union is not federally insured, it must change its name and must immediately cease using any credit union documents referencing federal insurance and a federal name, including checks and credit cards.

Four commenters supported all of the provisions in this chapter. One commenter requested a one year time frame to convert signage, promotional materials, etc. One commenter requested that the regional director have the authority to extend the time frame. The Board believes the current time frames are adequate but has provided the regional director with the discretion to extend the time frame for an additional 180 days.

One commenter requested NCUA to exempt converting state credit unions, whose fields of membership do not conform to federal standards, from compliance with NCUA's community charter requirements. The Board believes that this is not permitted under CUMAA. One commenter stated that a state charter converting to a federal charter should be able to continue to serve all of its existing members under the ''once a member, always a member'' policy. The Board agrees with this commenter and a credit union converting to a federal charter can continue to serve members of record after the date of conversion.

One commenter stated that this section should address conversion to a thrift or bank and provide citations to that information. Thrift and bank conversions are addressed in Section 708a of NCUA's Regulations. 12 CFR 708a.

V. Glossary

Three commenters commended NCUA for removing the definition of ''secondary member'' from the glossary. The Board has decided that there is no longer a need for this term and it will not be included in the glossary of the final manual. Nine commenters recommended NCUA also remove the definition of ''primary member'' from the glossary and any other references to it in the final regulation. The Board believes the term ''primary potential member'' is useful when addressing the issue of economic advisability and select group additions and, therefore, is not deleting the reference.

VI. Effective Date

One commenter requested that the manual be made effective six months after publication so that credit unions would have an equitable opportunity to apply for select group expansions, instead of a first-come, first serve approach. The Board is establishing January 1, 1999, as the effective date for this regulation, except for the definitions of ''immediate family member or household'' and ''well-defined local community, neighborhood or rural district,'' which Congress has designated as major rules. The major rules are effective March 5, 1999. The law contemplates an effective date at least 60 days after publication or submission to Congress for major rule provisions. This serves the public interest by providing all parties, including Congress, an opportunity to review and analyze these provisions prior to their effective date. The Board believes that credit unions are continuing to be harmed by the inability to add new groups and any benefit of delaying the effective date is outweighed by the harm to credit unions. Accordingly, the Board for good cause, finds that pursuant to 5 U.S.C. 553(d)(3) the rule shall be effective on January 1, 1999 and without 30 days advance notice of publication.

VII. General Comments on the Format of the Manual

The Board believed the new format of the manual would be more user-friendly by making information easier to locate. Ten commenters stated that the format of the manual is better and easier to read. Three commenters commended NCUA for a well written proposal. Two commenters commended NCUA for the comprehensiveness and clarity of the proposal. A few commenters recommended consolidating parts of the manual. Two commenters believed the format was difficult to use and recommended a revision. A frequent criticism of the previous chartering manual was that it was difficult to locate information quickly about a particular topic as it related to the different types of charters. To eliminate this problem and to ensure that each section was ''self contained,'' the manual segregates each type of charter into sections and addresses all the various issues that may affect that charter type. In so doing, some of the information applicable to all types of charters is repeated in the different sections. Naturally, in repeating similar information, the actual length of the manual is increased.

However, for the general public or the casual user, it makes for a more user-friendly document and facilitates research on the various types of charters.

VIII. Miscellaneous Comments

There were several comments received that did not directly address specific issues in the manual. One commenter questioned whether NCUA will change charters that do not meet the requirements of this proposal. NCUA will not apply this regulation retroactively. CUMAA grandfathered current credit union members and groups. However, NCUA encourages credit unions to examine and update their charters because it will be important for future credit union expansions or mergers. It is always important for a credit union to maintain an accurate and updated charter to ensure that it serve all eligible groups.

Two commenters are concerned that the proposed manual does not include any specific enforcement provisions, examination procedures or language that addresses the remedies for interested parties in the event that a credit union allegedly fails to adhere to the provisions of the manual. The Board believes that the normal examination procedures should be used to ensure compliance with the regulation. If a violation is discovered and cannot be handled at the regional level, appropriate enforcement actions as set forth in NCUA's Regulations and the FCUA will be initiated by the Board.

Two commenters requested that NCUA set forth procedures for chartering a credit union for the primary purpose of making business loans. A new credit union that wishes to be chartered for this purpose will have it included in its charter if the regional director agrees that the credit union can carry out that objective.

As a general observation, IRPS 99–1 applies only to federal credit unions, unless otherwise specified.

IX. Comments From Banks and Bank Trade Organizations

Briefly summarized, the bank commenters argued that NCUA did not interpret CUMAA correctly and that federal credit unions should be subject to taxation like banks. In general, these commenters opposed the definition of occupational common bond, reasonable proximity, service facility, local community, the streamlined approach for community charters with populations of 300,000 or less in a single political jurisdiction, capital adequacy and the definition of low-income credit unions. Some of these commenters supported NCUA's definition of ''immediate family members'' while others opposed it. Most of the commenters believe NCUA's definitions and standards are vague and lack clarity. In general these commenters argued that the proposal defeats the concept of ''meaningful affinity'' found in CUMAA.

The Board has considered all issues raised by these commenters and has previously addressed the major issues in this preamble since other commenters also opposed many of the same provisions. As to the question of taxation, this issue was legislatively addressed in CUMAA at Section 2.(4), which states that ''[c]redit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes. . . .''

Finally, many of the commenters stated that the proposed regulation does nothing to encourage the formation of separate credit unions to serve groups of fewer than 3,000 persons. The Board strongly disagrees with this comment. In fact, it is the Board's intent that any group that can meet the economic advisability requirements, should form its own credit union. The Board has simply established criteria that provides guidance based on historical experience relative to those groups that may have the best opportunity to succeed. Every effort will be made to encourage new charters, but operational feasibility and requirements are valid factors and cannot be ignored in the decision making process.

G. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The final rule will not have a significant economic impact on a substantial number of small credit unions and therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has previously determined that several requirements of this final rule constitute collections of information under the Paperwork Reduction Act. The requirements are that federal credit unions: (1) complete a charter application or conversion application; and (2) provide written requests for changes in a credit union's field of membership. These documents are necessary to ensure the safety and soundness of credit unions as well as

ensuring that the legal requirements of the Act have been met. Other aspects of this final rule reduce the paperwork requirements from the current rule.

It is NCUA's view that some aspects of the time it takes a credit union to complete a charter application, charter amendment, or a community conversion or expansion application is not a burden created by this regulation but is the usual and customary practice in the normal operations of a business entity. However, NCUA estimated that it should take a credit union an average of 80 hours to develop a written charter or conversion request. NCUA estimates that it will receive 80 charter or conversion requests in any given year. The annual reporting burden would be 6,400 hours to comply with this requirement. NCUA also estimates that it should take a credit union an average of two hours to provide a written request for changes in a credit union's field of membership. NCUA estimates that it will receive 9,000 of these requests in any given year. The annual reporting burden would be 18,000 hours to comply with this requirement. The total annual burden hours imposed by the proposed rule is 24,400 hours. Two commenters stated that the average of 80 hours to develop a charter conversion package was an insufficient amount of time. The commenters seem to confuse paperwork requirements with oral communications between the credit union and the region. The Board disagrees with the commenters' analysis and believes, on average, this time is sufficient. Furthermore, the Board believes the number of community charter conversions requests and select group expansion request is an accurate estimation.

The reporting requirements in IRPS 99–1 have been submitted to the Office of Management and Budget for approval and the OMB number will be published as soon as it received by NCUA. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The control number will be displayed in the table at 12 CFR 795.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This final rule makes no significant changes with respect to state credit unions and therefore, will not materially affect state interests.

Congressional Review

Congress, by statute, has determined that NCUA's definition of ''immediate family or household'' as well as NCUA's definition of a ''well-defined local community, neighborhood, or rural district,'' shall be treated as a major rule for purposes of chapter 8 of title 5 United States Code. OMB has determined that the remaining provisions of IRPS 99–1 do not constitute a major rule.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 17, and December 22, 1998.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration policies concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 99–1, Chartering and Field of Membership Policy. Copies may be obtained by contacting NCUA at the address found in § 790.2 of this chapter. The IRPS is incorporated into this section. (Approved by the Office of Management and Budget under control number 3133–0015.)

IRPS 99–1—[Added]

Note: The text of the Interpretive Ruling and Policy Statement (IRPS 99–1) does not appear in the Code of Federal Regulations.

3. IRPS 99–1 is added to read as follows:

CHAPTER 1—FEDERAL CREDIT UNION CHARTERING

I—Goals of NCUA Chartering Policy

The National Credit Union Administration's (NCUA) chartering and field of membership policies are directed toward achieving the following goals:

- 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; and
- To make quality credit union service available to all eligible persons.

NCUA may grant a charter to single occupational/associational groups, multiple groups, or communities if:

- The occupational, associational, or multiple groups 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.

Generally, these are the primary criteria that NCUA will consider. In unusual circumstances, however, NCUA may examine other factors, such as other federal law or public policy, in deciding if a charter should be approved.

Unless otherwise noted, the policies outlined in this manual apply only to federal credit unions.

II—Types of Charters

The Federal Credit Union Act recognizes three types of federal credit union charters—single common bond (occupational and associational), multiple common bond (more than one group each having a common bond of occupation or association), and community.

The requirements that must be met to charter a federal credit union are described in Chapter 2. Special rules for credit unions serving low-income groups are described in Chapter 3.

If a federal credit union charter is granted, Section 5 of the charter will describe the credit union's field of membership, which defines those persons and entities eligible for membership. Generally, federal credit unions are only able to grant loans and provide services to persons within the field of membership who have become members of the credit union.

III—Subscribers

Federal credit unions are generally organized by persons who volunteer their time and resources and are responsible for determining the interest, commitment, and economic advisability of forming a federal credit union. The organization of a successful federal credit union takes considerable planning and dedication.

Persons interested in organizing a federal credit union should contact one of the credit union trade associations or the NCUA regional office serving the state in which the credit union will be organized. Lists of NCUA offices and credit union trade associations are shown in the appendices. NCUA will provide information to groups interested in pursuing a federal charter and will assist them in contacting an organizer.

While anyone may organize a credit union, a person with training and experience in chartering new federal credit unions is generally the most effective organizer. However, extensive involvement by the group desiring credit union service is essential.

The functions of the organizer are to provide direction, guidance, and advice on the chartering process. The organizer also provides the group with information about a credit union's functions and purpose as well as technical assistance in preparing and submitting the charter application. Close communication and cooperation between the organizer and the proposed members are critical to the chartering process.

The Federal Credit Union Act requires that seven or more natural persons—the ''subscribers''—present to NCUA for approval a sworn organization certificate stating at a minimum:

- The name of the proposed federal credit union;
- The location of the proposed federal credit union and the territory in which it will operate;
- The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;
- The initial par value of the shares;
- The detailed proposed field of membership; and
- The fact that the certificate is made to enable such persons to avail themselves of the advantages of the Federal Credit Union Act.

False statements on any of the required documentation filed in obtaining a federal credit union charter may be grounds for federal criminal prosecution.

IV—Economic Advisability

IV.A—General

Before chartering a federal credit union, NCUA must be satisfied that the institution will be viable and that it will provide needed services to its members. Economic advisability, which is a determination that a potential charter will have a reasonable opportunity to succeed, is essential in order to qualify for a credit union charter.

NCUA will conduct an independent on-site investigation of each charter application to ensure that the proposed credit union can be successful. In general, 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.

IV.B—Proposed Management's Character and Fitness

The Federal Credit Union Act requires NCUA to ensure that the subscribers are of good ''general character and fitness.'' Prospective officials and employees will be the subject of credit and background investigations. The investigation report must demonstrate each applicant's ability to effectively handle financial matters. Employees and officials should also be competent, experienced, honest and of good character. Factors that may lead to disapproval of a prospective official or employee include criminal convictions, indictments, and acts of fraud and dishonesty. Further, factors such as serious or unresolved past due credit obligations and bankruptcies disclosed during credit checks may disqualify an individual.

NCUA also needs reasonable assurance that the management team will have the requisite skills—particularly in leadership and accounting—and the commitment to dedicate the time and effort needed to make the proposed federal credit union a success.

Section 701.14 of NCUA's Rules and Regulations sets forth the procedures for NCUA approval of officials of newly chartered credit unions. If the application of a prospective official or employee to serve is not acceptable to the regional director, the group can propose an alternate to act in that individual's place. If the charter applicant feels it is essential that the disqualified individual be retained, the individual may appeal the regional director's decision to the NCUA Board. If an appeal is pursued, action on the application may be delayed. If the appeal is denied by the NCUA Board, an acceptable new applicant must be provided before the charter can be approved.

IV.C—Member Support

Economic advisability is a major factor in determining whether the credit union will be chartered. An important consideration is the degree of support from the field of membership. The charter applicant must be able to demonstrate that membership support is sufficient to ensure viability.

NCUA has not set a minimum field of membership size for chartering a federal credit union. Consequently, groups of any size may apply for a credit union charter and be approved if they demonstrate economic advisability. However, it is important to note, that often the size of the group is indicative of the potential for success. For that reason, a charter application with fewer than 3,000 primary potential members (e.g., employees of a corporation or members of an association) may not be economically advisable. This is particularly true for groups of 200 or less primary potential members. Therefore, a charter applicant with a proposed field of membership of fewer than 3,000 primary potential members may have to provide more support than an applicant with a larger field of membership. For example, a small occupational or associational group may be required to demonstrate a commitment for long-term support from the sponsor.

IV.D—Present and Future Market Conditions—Business Plan

The ability to provide effective service to members, compete in the marketplace, and to adapt to changing market conditions are key to the survival of any enterprise. Before NCUA will charter a credit union, a business plan based on realistic and supportable projections and assumptions must be submitted.

The business plan should contain, at a minimum, the following elements:

- Mission statement;
- Analysis of market conditions, including if applicable, geographic, demographic, employment, income, housing, and other economic data;
- Identify any overlapped credit unions (discussed in Chapter 2). This does not apply to community charter applicants;
- Evidence of member support;
- Goals for shares, loans, and for number of members;
- Financial services needed/desired;
- Financial services to be provided to members of all segments within the field of membership;
- How/when services are to be implemented;
- Organizational/management plan addressing qualification and planned training of officials/employees;
- Continuity plan for directors, committee members and management staff;
- Operating facilities, to include office space/equipment and supplies, safeguarding of assets, insurance coverage, etc.;
- Type of record keeping and data processing system;
- Detailed semiannual pro forma financial statements (balance sheet,

income and expense projections) for 1st and 2nd year, including assumptions—e.g., loan and dividend rates;

- Plans for operating independently;
- Written policies (shares, lending, investments, funds management, capital accumulation, dividends, collections, etc.);
- Source of funds to pay expenses during initial months of operation, including any subsidies, assistance, etc., and terms or conditions of such resources; and
- Evidence of sponsor commitment (or other source of support) if subsidies are critical to success of the federal credit union. Evidence may be in the form of letters, contracts, financial statements from the sponsor, and any other such document on which the proposed federal credit union can substantiate its projections.

While the business plan may be prepared with outside assistance, the subscribers and proposed officials must understand and support the submitted business plan.

V—Steps in Organizing a Federal Credit Union

V.A—Getting Started

Following the guidance contained throughout this policy, the organizers should submit wording for the proposed field of membership (the persons, organizations and other legal entities the credit union will serve) to NCUA early in the application process for written preliminary approval. The proposed field of membership must meet all common bond or community requirements.

Once the field of membership has been given preliminary approval, and the organizer is satisfied the application has merit, the organizer should conduct an organizational meeting to elect seven to ten persons to serve as subscribers. The subscribers should locate willing individuals capable of serving on the board of directors, credit committee, supervisory committee, and as chief operating officer/manager of the proposed credit union.

Subsequent organizational meetings may be held to discuss the progress of the charter investigation, to announce the proposed slate of officials, and to respond to any questions posed at these meetings.

If NCUA approves the charter application, the subscribers, as their final duty, will elect the board of directors of the proposed federal credit union. The new board of directors will then appoint the supervisory committee.

V.B—Charter Application Documentation

V.B.1—General

As discussed previously in this Chapter, the organizer of a federal credit union charter must, at a minimum, provide evidence that:

- The group(s) possesses an appropriate common bond or the geographical area to be served is a well-defined local community, neighborhood, or rural district;
- The subscribers, prospective officials, and employees are of good character and fitness; and
- The establishment of the credit union is economically advisable.

As part of the application process, the organizer must submit the following forms, which are available in Appendix D of this Manual:

- Federal Credit Union Investigation Report, NCUA 4001;
- Organization Certificate, NCUA 4008;
- Report of Official and Agreement to Serve, NCUA 4012;
- Application and Agreements for Insurance of Accounts, NCUA 9500; and
- Certification of Resolutions, NCUA 9501.
- Each of these forms is described in more detail in the following sections.

V.B.2—Federal Credit Union Investigation Report, NCUA 4001

The application for a new federal credit union will be submitted on NCUA 4001. (State-chartered credit unions applying for conversion to federal charter will use NCUA 4000. See Chapter 4 for a full discussion.) The organizer is required to certify the information and recommend approval or disapproval, based on the investigation of the request. Instructions and guidance for completing the form are provided on the reverse side of the form.

V.B.3—Organization Certificate, NCUA 4008

This document, which must be completed by the subscribers, includes the seven criteria established by the Federal Credit Union Act. NCUA staff assigned to the case will assist in the proper completion of this document.

V.B.4—Report of Official and Agreement to Serve, NCUA 4012

This form documents general background information of each official and employee of the proposed federal credit union. Each official and employee must complete and sign this form. The organizer must review each of the NCUA 4012s for elements that would prevent the prospective official or employee from serving. Further, such factors as serious, unresolved past due credit obligations and bankruptcies disclosed during credit checks may disqualify an individual.

V.B.5—Application and Agreements for Insurance of Accounts, NCUA 9500

This document contains the agreements with which federal credit unions must comply in order to obtain National Credit Union Share Insurance Fund (NCUSIF) coverage of member accounts. The document must be completed and signed by both the chief executive officer and chief financial officer. A federal credit union must qualify for federal share insurance.

V.B.6—Certification of Resolutions, NCUA 9501

This document certifies that the board of directors of the proposed federal credit union has resolved to apply for NCUSIF insurance of member accounts and has authorized the chief executive officer and recording officer to execute the Application and Agreements for Insurance of Accounts. This form must be signed by both the chief executive officer and recording officer of the proposed federal credit union.

VI—Name Selection

It is the responsibility of the federal credit union organizers or officials of an existing credit union to ensure that the proposed federal credit union name or federal credit union name change does not constitute an infringement on the name of any corporation in its trade area. This responsibility also includes researching any service marks or trademarks used by any other corporation (including credit unions) in its trade area. NCUA will ensure, to the extent possible, that the credit union's name:

- Is not already being officially used by another federal credit union;
- Will not be confused with NCUA or another federal or state agency, or with another credit union; and
- Does not include misleading or inappropriate language.

The last three words in the name of every credit union chartered by NCUA must be ''Federal Credit Union.''

The word ''community,'' while not required, can only be included in the name of federal credit unions that have been granted a community charter.

VII—NCUA Review

VII.A—General

Once NCUA receives a complete charter application package, an acknowledgment of receipt will be sent

to the organizer. At some point during the review process, a staff member will be assigned to perform an on-site contact with the proposed officials and others having an interest in the proposed federal credit union.

NCUA staff will review the application package and verify its accuracy and reasonableness. A staff member will inquire into the financial management experience and the suitability and commitment of the proposed officials and employees, and will make an assessment of economic advisability. The staff member will also provide guidance to the subscribers in the proper completion of the Organization Certificate, NCUA 4008.

Credit and background investigations may be conducted concurrently by NCUA with other work being performed by the organizer and subscribers to reduce the likelihood of delays in the chartering process.

The staff member will analyze the prospective credit union's business plan for realistic projections, attainable goals, adequate service to all segments of the field of membership, sufficient start-up capital, and time commitment by the proposed officials and employees. Any concerns will be reviewed with the organizer and discussed with the prospective credit union's officials. Additional on-site contacts by NCUA staff may be necessary. The organizer and subscribers will be expected to take the steps necessary to resolve any issues or concerns. Such resolution efforts may delay processing the application.

NCUA staff will then make a recommendation to the regional director regarding the charter application. The recommendation may include specific provisions to be included in a Letter of Understanding and Agreement. In most cases, NCUA will require the prospective officials to adhere to certain operational guidelines. Generally, the agreement is for a limited term of two to four years. A sample Letter of Understanding and Agreement is found in Appendix B.

VII.B—Regional Director Approval

Once approved, the board of directors of the newly formed federal credit union will receive a signed charter and standard bylaws from the regional director. Additionally, the officials will be advised of the name of the examiner assigned responsibility for supervising and examining the credit union.

VII.C—Regional Director Disapproval

When a regional director disapproves any charter application, in whole or in part, the organizer will be informed in writing of the specific reasons for the disapproval. Where applicable, the regional director will provide information concerning options or suggestions that the applicant could consider for gaining approval or otherwise acquiring credit union service. The letter of denial will include the procedures for appealing the decision.

VII.D—Appeal of Regional Director Decision

If the regional director denies a charter application, in whole or in part, that decision may be appealed to the NCUA Board. An appeal must be sent to the appropriate regional office within 60 days of the date of denial and must address the specific reasons for denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal with a recommendation to the NCUA Board.

Before appealing, the prospective group may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but as a request for reconsideration by the regional director. The regional director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the charter application is again denied, the group may proceed with the appeal process within 60 days of the date of the last denial.

VII.E—Commencement of Operations

Assistance in commencing operations is generally available through the various credit union trade organizations listed in Appendix E.

All new federal credit unions are also encouraged to establish a mentor relationship with a knowledgeable, experienced credit union individual or an existing, well-operated credit union. The mentor should provide guidance and assistance to the new credit union through attendance at meetings and general oversight review. Upon request, NCUA will provide assistance in finding a qualified mentor.

VIII—Future Supervision

Each federal credit union will be examined regularly by NCUA to determine that it remains in compliance with applicable laws and regulations and to determine that it does not pose undue risk to the NCUSIF. The examiner will contact the credit union officials shortly after approval of the charter in order to arrange for the initial examination (usually within the first six months of operation).

The examiner will be responsible for monitoring the progress of the credit union and providing the necessary advice and guidance to ensure it is in compliance with applicable laws and regulations. The examiner will also monitor compliance with the terms of any required Letter of Understanding and Agreement. Typically, the examiner will require the credit union to submit copies of monthly board minutes and financial statements.

The Federal Credit Union Act requires all newly chartered credit unions, up to two years after the charter anniversary date, to obtain NCUA approval prior to appointment of any new board member, credit or supervisory committee member, or senior executive officer. Section 701.14 of the NCUA Rules and Regulations sets forth the notice and application requirements. If NCUA issues a Notice of Disapproval, the newly chartered credit union is prohibited from making the change.

NCUA may disapprove an individual serving as a director, committee member or senior executive officer if it finds that the competence, experience, character, or integrity of the individual indicates it would not be in the best interests of the members of the credit union or of the public to permit the individual to be employed by or associated with the credit union. If a Notice of Disapproval is issued, the credit union may appeal the decision to the NCUA Board.

IX—Corporate Federal Credit Unions

A corporate federal credit union is one that is operated primarily for the purpose of serving other credit unions. Corporate federal credit unions operate under and are administered by the NCUA Office of Corporate Credit Unions.

X—Groups Seeking Credit Union Service

NCUA will attempt to assist any group in chartering a credit union or joining an existing credit union. If the group is not eligible for federal credit union service, NCUA will refer the group to the appropriate state supervisory authority where different requirements may apply.

XI—Field of Membership Designations

NCUA will designate a credit union based on the following criteria:

Single Occupational: If a credit union serves a single occupational sponsor, such as ABC Corporation, it will be designated as an occupational credit union.

Single Associational: If a credit union serves a single associational sponsor, such as the Knights of Columbus, 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, followed by a description of their geographic boundaries (e.g. city or county).

Credit unions desiring to confirm or submit an application to change their designations should contact the appropriate NCUA regional office.

XII—Serving Foreign Nationals

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 serves foreign nationals outside the United States it must submit a business plan and must have prior written approval of the regional director. The business plan must explain in detail the types of loan products that will be offered and any written policies regarding collection and collateral involving loans to foreign nationals residing overseas and any written restrictions regarding loan repayment if a foreign national leaves the field of membership. If safety and soundness concerns exist, the regional director may limit a federal credit union's ability to offer specific types of services to foreign nationals living overseas that are within the credit union's field of membership.

A federal credit union can only 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. NCUA policy prohibits the establishment of a federal credit union on foreign soil for the primary purpose of serving the citizens of a foreign nation.

CHAPTER 2—FIELD OF MEMBERSHIP REQUIREMENTS FOR FEDERAL CREDIT UNIONS

I—Introduction

I.A.1—General

As set forth in Chapter 1, the Federal Credit Union Act provides for three types of federal credit union charters—single common bond (occupational or associational), multiple common bond (multiple groups), and community. Section 109 (12 U.S.C. 1759) of the Federal Credit Union Act sets forth the membership criteria for each of these three types of credit unions.

The field of membership, which is specified in Section 5 of the charter, defines those persons and entities eligible for membership. A single common bond federal credit union consists of one group which has a common bond of occupation or association. A multiple common bond federal credit union consists of more than one group, each of which has a common bond of occupation or association. A community federal credit union consists of persons or organizations within a well-defined local community, neighborhood, or rural district.

Once chartered, a federal credit union can amend its field of membership; however, the same common bond or community requirements for chartering the credit union must be satisfied. Since there are differences in the three types of charters, special rules which are fully discussed in the following sections of this Chapter may apply to each.

I.A.2—Special Low-Income Rules

Generally, federal credit unions can only grant loans and provide services to persons who have joined the credit union. The Federal Credit Union Act states that one of the purposes of federal credit unions is ''to serve the productive and provident credit needs of individuals of modest means.'' Although field of membership requirements are applicable, special rules set forth in Chapter 3 may apply to low-income designated credit unions and those credit unions assisting low-income groups or to a federal credit union that adds an underserved community to its field of membership.

II—Occupational Common Bond

II.A—General

A single occupational common bond federal credit union may include in its field of membership all persons and entities who share that common bond. NCUA permits a person's membership eligibility in a single occupational common bond group to be established in four ways:

- Employment (or a long-term contractual relationship equivalent to employment) in a single corporation or other legal entity makes that person part of an single occupational common bond;
- Employment in a corporation or other legal entity with a controlling ownership interest (which shall not be less than 10 percent) in or by another legal entity makes that person part of a single occupational common bond;
- Employment in a corporation or other legal entity which is related to another legal entity (such as a company under contract and possessing a strong dependency relationship with another company) makes that person part of a single occupational common bond; or
- Employment or attendance at a school makes that person part of a single occupational common bond.

A geographic limitation is not a requirement for a single occupational common bond. However, for purposes of describing the field of membership, the geographic areas being served will be included in the charter. For example:

- Employees, officials, and persons who work regularly under contract in Miami, Florida for ABC Corporation or the subsidiaries listed below;
- Employees of ABC Corporation who are paid from . . .;
- Employees of ABC Corporation who are supervised from . . .;
- Employees of ABC Corporation who are headquartered in . . .; and/or
- Employees of ABC Corporation who work in the United States.

So that NCUA may monitor any potential field of membership overlaps, each group to be served (e.g., employees of subsidiaries, franchisees, and contractors) must be separately listed in Section 5 of the charter.

The corporate or other legal entity (i.e., the employer) may also be included in the common bond—e.g., ''ABC Corporation.'' The corporation or legal entity will be defined in the last clause in Section 5 of the credit union's charter.

A charter applicant must provide documentation to establish that the single occupational common bond requirement has been met.

Some examples of a single occupational common bond 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 MMLLJS 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); or

• Employees of all the schools supervised by the Timbrook Board of Education in Timbrook, Georgia. (common bond—same employer).

Some Examples of insufficiently defined single occupational common bonds are:

• Employees of manufacturing firms in Seattle, Washington. (no defined occupational sponsor);

• Persons employed or working in Chicago, Illinois. (no occupational common bond);

• Employees of all colleges and universities in the State of Texas. (not a single occupational common bond); or

• Employees of Timbrook School District and Swanbrook School District, in Burns, Georgia. (not a single occupational common bond).

II.B—Occupational Common Bond Amendments

II.B.1—General

Section 5 of every 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. There are a number of instances in which Section 5 must be amended by NCUA.

First, a new group sharing the credit union's common bond is added to the field of membership. This may occur through agreement between the group and the credit union directly, or through a merger, corporate acquisition, purchase and assumption (P&A), or spin-off.

Second, if the 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.

Third, a federal credit union qualifies to change its common bond from:

• A single occupational common bond to a single associational common bond;

• A single occupational common bond to a community charter; or

• A single occupational common bond to a multiple common bond.

Fourth, 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.

An existing single occupational common bond federal credit union that submits a request to amend its charter must provide documentation to establish that the occupational common bond requirement has been met.

All amendments to an occupational common bond credit union's field of membership must be approved by the regional director. The regional director may approve an amendment to expand the field of membership if:

• The common bond requirements of this section are satisfied;

• The group to be added has provided a written request for service to the credit union;

• The change is economically advisable; and

• The group presently does not have credit union service available other than through a community charter (if non community credit union service is available, the region must conduct an overlap analysis in accordance with Section II.E of this Chapter).

II.B.2—Corporate Restructuring

If the single common bond group that comprises a federal credit union's field of membership undergoes a substantial restructuring, the result is often that portions of the group are sold or spun off. This is an event which requires a change to the credit union's field of membership. NCUA will not permit a single common bond credit union to maintain in its field of membership a sold or spun-off group to which it has been providing service unless the group otherwise qualifies for membership in the credit union or if the credit union converts to a multiple common bond credit union.

II.B.3—Economic Advisability

Prior to granting a common bond expansion, NCUA will examine the amendment's likely effect on the credit union's operations and financial condition, and its likely impact on other credit unions. In most cases, the information needed for analyzing the effect of adding a particular group will be available to NCUA through the examination and financial and statistical reports; however, in particular cases, a regional director may require additional information prior to making a decision. With respect to a proposed expansion's effect on other credit unions, the requirements on overlapping fields of membership set forth in Section II.E of this Chapter are also applicable.

II.B.4—Documentation Requirements

A federal credit union requesting a common bond expansion must submit a formal written request, using the Application for Field of Membership Amendment (NCUA 4015) to the appropriate NCUA regional director. If a credit union is adding a group of 200 or less primary potential members, then the NCUA 4015–EZ should be used. The request must be signed by an authorized credit union representative.

The NCUA 4015 (for groups in excess of 200 primary potential members) must be accompanied by the following:

• A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:

• How the group shares the credit union's occupational common bond;

• That the group wants to be added to the applicant federal credit union's field of membership;

• Whether the group presently has other credit union service available; and

• The number of persons currently included within the group to be added and their locations.

• If the group is eligible for membership in any other credit union, documentation must be provided to support inclusion of the group under the overlap standards set forth in Section II.E of this Chapter.

The NCUA 4015–EZ (for groups of 200 or less primary potential members) must be accompanied by the following:

• A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:

• How the group shares the credit union's occupational common bond;

• That the group wants to be added to the applicant federal credit union's field of membership; and

• The number of persons currently included within the group to be added and their locations.

II.C—NCUA's Procedures for Amending the Field of Membership

II.C.1—General

All requests for approval to amend a federal credit union's charter must be submitted to the appropriate regional director.

II.C.2—Regional Director's Decision

All amendment requests will be reviewed by NCUA staff in order to ensure conformance to NCUA policy.

In some cases, an on-site review by a staff member may be required by the regional director before acting on a proposed amendment. In addition, the regional director may, after taking into account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. NCUA will carefully consider the economic advisability of expanding the field of membership of a credit union with financial or operational problems.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUSIF.

II.C.3—Regional Director Approval

If the requested amendment is approved by the regional director, the credit union will be issued an amendment to Section 5 of its charter.

II.C.4—Regional Director Disapproval

When a regional director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedure.

II.C.5—Appeal of Regional Director Decision

If a field of membership expansion, request to remove an exclusionary clause, merger, or spin-off is denied by the regional director, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the appropriate regional office within 60 days of the date of denial, and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but as a request for reconsideration by the regional director. The regional director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the regional director.

II.D—Mergers, Purchase and Assumptions, and Spin-offs

In general, other than the addition of common bond groups, there are three additional ways a federal credit union with a single occupational common bond can expand its field of membership:

- By taking in the field of membership of another credit union through a common bond or emergency merger;
- By taking in the field of membership of another credit union through a common bond or emergency purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a common bond spin-off.

II.D.1—Mergers

Generally, the requirements applicable to field of membership expansions found in this chapter apply to mergers where the continuing credit union has a federal charter. That is, the two credit unions must share a common bond.

Where the merging credit union is state chartered, the common bond rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

If a single occupational credit union wants to merge into a multiple common bond or community credit union, Section IV.D or Section V.D of this Chapter, respectively, should be reviewed.

II.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or likely to become insolvent, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any common bond restrictions and without changing the character of the continuing federal credit union for future amendments. Under this authority, therefore, a single occupational common bond federal credit union may take into its field of membership any dissimilar charter type.

The common bond characteristic of the continuing credit union in an emergency merger does not change. That is, even though the merging credit union is a multiple common bond or community, the continuing credit union will remain a single common bond credit union. Similarly, if the merging credit union is also an unlike single common bond, the continuing credit union will remain a single common

bond credit union. Future common bond expansions will be based on the continuing credit union's original single common bond.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

II.D.3—Purchase and Assumptions (P&As)

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation. In the few instances where a P&A may be appropriate, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency merger criteria are satisfied. However, if the P&A does not meet the emergency merger criteria, it must be processed under the common bond requirements.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities, without regard to common bond restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the purchased and/or assumed credit union's field of membership does not share a common bond with the purchasing and/or assuming credit union, then the continuing credit union's original common bond will be controlling for future common bond expansions.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

II.D.4—Spin-Offs

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new credit union or goes to an existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the affected credit unions have a common bond (applies only to single occupational credit unions);
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see Part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. Voting requirements for federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable. Spin-offs in the same region also require approval by the state regulator, as applicable.

II.E—Overlaps

II.E.1—General

An overlap exists when a group of persons is eligible for membership in two or more credit unions. As a general rule, NCUA will not charter two or more credit unions to serve the same single occupational group. 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 clearly outweighs any adverse effect on the overlapped credit union. However, when two or more credit unions are attempting to serve the same occupational group, an overlap can be permitted.

Proposed or existing credit unions must investigate the possibility of an overlap with federally insured credit unions prior to submitting an application for a proposed charter or expansion if the group(s) is greater than 200 primary potential members.

When an overlap situation does arise, officials of the involved credit unions must attempt to resolve the overlap issue. If the matter is resolved between the affected credit unions, the applicant must submit a letter to that effect from the credit union whose field of membership already includes the subject group.

If no resolution is possible or the overlapped credit union fails to provide a letter, an application for a new charter or field of membership expansion may still be submitted, but must also include information regarding the overlap and documented attempts at resolution. Documentation on the interests of the group, such as a petition signed by a majority of the group's members, will be strongly considered.

An overlap will not be considered adverse to the overlapped credit union if:

- The group has 200 or less primary potential members or the overlap is otherwise incidental in nature—i.e., the group of persons in question is so small as to have no material effect on the original credit union;
- The overlapped credit union does not object to the overlap; or
- There is limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time.

In reviewing the overlap, the regional director will consider:

- The nature of the issue;
- Efforts made to resolve the matter;
- Financial effect on the overlapped credit union;
- The desires of the group(s);
- Whether the original credit union fails to provide requested service;
- The desire of the sponsor organization; and
- The best interests of the affected group and the credit union members involved.

Potential overlaps of a federally insured state credit union's field of membership by a federal credit union will generally be analyzed in the same way as if two federal credit unions were involved. Where a federally insured state credit union's field of membership is broadly stated, NCUA will exclude its field of membership from any overlap protection.

New charter applicants and every single occupational common bond

group which comes before the regional director for affiliation with an existing federal credit union must advise the regional director in writing whether the group is included within the field of membership of any other credit union except a community charter. This notification requirement is not applicable to groups with 200 or less primary potential members. If cases arise where the assurance given to a regional director concerning unavailability of credit union service is inaccurate, the misinformation is grounds for removal of the group from the federal credit union's charter.

NCUA will permit single occupational federal credit unions to overlap community charters without performing an overlap analysis.

II.E.2—Overlap Issues as a Result of Organizational Restructuring

A federal credit union's field of membership will always be governed by the common bond descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the common bond described in Section 5. Where acquisitions are made which add a new subsidiary, the group cannot be served until the subsidiary is included in the field of membership.

Overlaps may occur as a result of restructuring or merger of the parent organization. Credit unions affected by organizational restructuring or merger should attempt to resolve overlap issues among themselves. If an agreement is reached, they must apply to NCUA for a modification of their fields of membership to reflect the groups each will serve. NCUA will make the final decision regarding field of membership amendments, taking into account the credit unions' agreements, safety and soundness concerns, the desires of the members, the significance of the overlap, and other relevant issues.

In addition, credit unions must submit to NCUA documentation explaining the restructuring and providing information regarding the new organizational structure. To help in future monitoring of overlaps, the credit union must identify divisions and subsidiaries and the locations of each. Where the sponsor and its employees desire to continue service, NCUA may use wording such as the following:

- Employees of Lucky Corporation, formerly a subsidiary of Tool, Incorporated, located in Charleston, South Carolina.

II.E.3—Exclusionary Clauses

An exclusionary clause is a limitation which precludes the credit union from serving the primary members of a portion of a group otherwise included in its field of membership.

When two credit unions agree and/or NCUA has determined that overlap protection is appropriate for safety and soundness reasons, an exclusionary clause will be included in the expanding federal credit union's charter.

Exclusionary clauses are very difficult for credit unions and NCUA to monitor properly. Additionally, exclusionary clauses can be ineffective or create obvious inequities—one spouse may be eligible for membership in a federal credit union while the other may not; one employee may be eligible for credit union service while a co-worker may not. If, for safety and soundness reasons, an exclusionary clause is appropriate, the overlap protection only applies to primary members, which may only provide limited protection.

One example of an appropriate use of an exclusionary clause may be where there is a merger of two corporations served by two credit unions which will continue to independently serve their respective groups as they had prior to their sponsors' consolidation. The addition of an exclusionary clause to the field of membership of one or both of the credit unions may be the best way to clarify the division of service responsibility within the new corporate entity.

When an exclusionary clause is included in a federal credit union's field of membership, NCUA will define:

- The identity of the group;
- Whether the exclusion is to apply to the entire group or only to those who are actually members of another credit union;
- Whether the exclusion is to apply only to the current members of the group or to future members as well; and
- Whether the exclusion is to apply for a limited time period.

Examples of exclusionary wording are:

- Persons who work for Pearl Jam Company, except those who work in, are paid from, or are supervised from San Francisco, California.
- Persons who work for the Fastball Co., except those employed by the Ranger Division as of June 30, 1996.
- Persons who work for CAT Co., except those who were members of the St. Bonaventure Federal Credit Union as of June 30, 1996.

Exclusionary clauses granted prior to the adoption of this new chartering manual will remain in effect unless the two credit unions agree to remove them, or a credit union petitions NCUA to remove an exclusionary clause. NCUA may remove the exclusionary clause if it determines that removal is in the best interests of the members and clearly outweighs any adverse effect on the overlapped credit union.

II.F—Charter Conversion

A single occupational common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant federal credit union may be required to develop a detailed business plan as specified in Chapter 1, Section IV.D.

A single occupational common bond federal credit union may apply to convert to a multiple common bond charter by adding a non common bond group that is within a reasonable proximity of a service facility. Groups within the existing charter may be retained and continue to be served. However, future amendments, including any expansions of the original single common bond group, must be done in accordance with multiple common bond policy.

A credit union will not be permitted to convert to another type of charter, except community charter, for three years after approval, unless the regional director determines that a charter conversion is necessary to resolve safety and soundness concerns.

II.G—Removal of Groups From the Field of Membership

A credit union may request removal of a portion of the common bond group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the overlapping field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit

union or refuses to provide needed support; or

- The group initiates action to be removed from the field of membership.

When a federal credit union requests an amendment to remove a group from its field of membership, the regional director will determine why the credit union wishes to remove the group and whether the existing members of the group will continue membership. If the regional director concurs with the request, membership may continue for those who are already members under the ''once a member, always a member'' provision of the Federal Credit Union Act.

II.H—Other Persons Sharing Common Bond

A number of persons, by virtue of 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 above employment;
- Volunteers;
- Member of the immediate family or household; and
- Organizations of such persons.

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 in order 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 in order 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 virtue of their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or church.

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.

III—Associational Common Bond

III.A.1—General

A single associational federal credit union may include in its field of membership, regardless of location, all members and employees of a recognized association. A single associational common bond consists of individuals (natural persons) and/or groups (non natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests. Separately chartered associational groups can establish a single common bond relationship if they are integrally related and share common goals and purposes. For example, two or more churches of the same denomination, Knights of Columbus Councils, or locals of the same union can qualify as a single associational common bond.

Individuals and groups eligible for membership in a single associational credit union can include the following:

- Natural person members of the association (for example, members of a union or church members);
- Non-natural person members of the association;
- Employees of the association (for example, employees of the labor union or employees of the church); and
- The association.

Generally, a single associational common bond does not include a geographic definition. However, a proposed or existing federal credit union may limit its field of membership to a single association or geographic area. NCUA may impose a geographic limitation if it is determined that the applicant credit union does not have the ability to serve a larger group or there are other operational concerns. All single associational common bonds will include a definition of the group that may be served based on the effective date of the association's charter and bylaws. If the associational charter crosses NCUA regional boundaries, each of the affected regional directors must be consulted prior to NCUA action on the charter.

Qualifying associational groups must hold meetings open to all members, must sponsor other activities which demonstrate that the members of the group meet to accomplish the objectives of the association, and must have an authoritative definition of who is eligible for membership. Usually, this will be found in the association's charter and bylaws.

The common bond for an associational group cannot be established simply on the basis that the association exists. In determining whether a group satisfies associational common bond requirements for a federal credit union charter, NCUA will consider the totality of the circumstances, such as:

- Whether members pay dues;
- Whether members participate in the furtherance of the goals of the association;
- Whether the members have voting rights;
- Whether the association maintains a membership list;
- The association's membership eligibility requirements; and
- The frequency of meetings.

A support group whose members are continually changing or whose duration is temporary may not meet the single associational common bond criteria. Individuals or honorary members who only make donations to the association are not eligible to join the credit union. Other classes of membership that do not meet to accomplish the goals of the association would not qualify.

Educational groups—for example, parent-teacher organizations, alumni associations, and student organizations in any school—and church groups constitute associational common bonds and may qualify for a federal credit union charter. Homeowner associations, tenant groups, co-ops, consumer groups, and other groups of persons having an ''interest in'' a particular cause and certain consumer cooperatives may also qualify as an association.

The terminology ''Alumni of Jacksonville State University'' is insufficient to demonstrate an associational common bond. To qualify as an association, the alumni association must meet the requirements for an associational common bond. The alumni of a school must first join the alumni association, and not merely be alumni of the school to be eligible for membership.

Associations based primarily on a client-customer relationship do not meet associational common bond requirements. However, having an incidental client-customer relationship does not preclude an associational

charter as long as the associational common bond requirements are met. For example, a fraternal association that offers insurance, which is not a condition of membership, may qualify as a valid associational common bond.

Applicants for a single associational common bond federal credit union charter or a field of membership amendment to include an association must provide, at the request of the regional director, a copy of the association's charter, bylaws, or other equivalent documentation, and any legal documentation required by the state or other governing authority.

The associational sponsor itself may also be included in the field of membership—e.g., ''Sprocket Association''—and will be shown in the last clause of the field of membership.

III.A.2—Subsequent Changes to Association's Bylaws

If the association's membership or geographical definitions in its charter and bylaws are changed subsequent to the effective date stated in the field of membership, the credit union must submit the revised charter or bylaws for NCUA's consideration and approval prior to serving members of the association added as a result of the change.

III.A.3—Sample Single Associational Common Bonds

Some examples of associational common bonds are:

- Regular members of Locals 10 and 13, IBEW, in Florida, who qualify for membership in accordance with their charter and bylaws in effect on May 20, 1997;
- Members of the Hoosier Farm Bureau who live or work in Grant, Logan, or Lee Counties of Indiana, who qualify for membership in accordance with its charter and bylaws in effect on March 7, 1997;
- Members of the Shalom Congregation in Chevy Chase, Maryland;
- Regular members of the Corporate Executives Association, located in Westchester, New York, who qualify for membership in accordance with its charter and bylaws in effect on December 1, 1997;
- Members of the University of Wisconsin Alumni Association, located in Green Bay, Wisconsin;
- Members of the Marine Corps Reserve Officers Association; or
- Members of St. John's Methodist Church and St. Luke's Methodist Church, located in Toledo, Ohio.

Some examples of insufficiently defined single associational common bonds are:

- All Lutherans in the United States. (too broadly defined); or
- Veterans of U.S. military service. (group is too broadly defined; no formal association of all members of the group).

Some examples of unacceptable single associational common bonds are:

- Alumni of Amos University. (no formal association);
- Customers of Fleetwood Insurance Company. (policyholders or primarily customer/client relationships do not meet associational standards);
- Employees of members of the Reston, Virginia Chamber of Commerce. (not a sufficiently close tie to the associational common bond); or
- Members of St. John's Lutheran Church and St. Mary's Catholic Church located in Anniston, Alabama. (churches are not of the same denomination).

III.B—Associational Common Bond Amendments

III.B.1—General

Section 5 of every associational federal credit union's charter defines the field of membership the credit union can legally serve. Only those persons who, or legal entities that, join the credit union and are specified in the field of membership can be served. There are three instances in which Section 5 must be amended by NCUA.

First, a new group that shares the credit union's common bond is added to the field of membership. This may occur through agreement between the group and the credit union directly, or through a merger, purchase and assumption (P&A), or spin-off.

Second, a federal credit union qualifies to change its common bond from:

- A single associational common bond to a single occupational common bond;
- A single associational common bond to a community charter; or
- A single associational common bond to a multiple common bond.

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

An existing single associational federal credit union that submits a request to amend its charter must provide documentation to establish that the associational common bond requirement has been met.

All amendments to an associational common bond credit union's field of membership must be approved by the regional director. The regional director may approve an amendment to expand the field of membership if:

- The common bond requirements of this section are satisfied;
- The group to be added has provided a written request for service to the credit union;
- The change is economically advisable; and
- The group presently does not have credit union service available other than through a community credit union (if non community credit union service is available, the region must conduct an overlap analysis in accordance with Section III.E. of this Chapter.)

III.B.2—Organizational Restructuring

If the single common bond group that comprises a federal credit union's field of membership undergoes a substantial restructuring, the result is often that portions of the group are sold or spun off. This is an event which requires a change to the credit union's field of membership. NCUA may not permit a single associational credit union to maintain in its field of membership a sold or spun-off group to which it has been providing service unless the group otherwise qualifies for membership in the credit union or the credit union converts to a multiple common bond credit union.

III.B.3—Economic Advisability

Prior to granting a common bond expansion, NCUA will examine the amendment's likely impact on the credit union's operations and financial condition and its likely effect on other credit unions. In most cases, the information needed for analyzing the effect of adding a particular group will be available to NCUA through the examination and financial and statistical reports; however, in particular cases, a regional director may require additional information prior to making a decision. With respect to a proposed expansion's effect on other credit unions, the requirements on overlapping fields of membership set forth in Section III.E of this Chapter are also applicable.

III.B.4—Documentation Requirements

A federal credit union requesting a common bond expansion must submit a formal written request, using the Application for Field of Membership Amendment (NCUA 4015), to the appropriate NCUA regional director. If a credit union is adding a group of 200 or less primary potential members, then the NCUA 4015–EZ should be used. The

request must be signed by an authorized credit union representative.

NCUA 4015 (for groups in excess of 200 primary potential members) must be accompanied by the following:

- A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:
- How the group shares the credit union's associational common bond;
- That the group wants to be added to the applicant federal credit union's field of membership;
- Whether the group presently has other credit union service available; and
- The number of persons currently included within the group to be added and their locations.
- The most recent copy of the group's charter and bylaws or equivalent documentation.
- If the group is eligible for membership in any other credit union, documentation must be provided to support inclusion of the group under the overlap standards set forth in Section III.E of this Chapter.

The NCUA 4015–EZ (for groups of 200 or less primary potential members) must be accompanied by the following:

- A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:
- How the group shares the credit union's associational common bond;
- That the group wants to be added to the applicant federal credit union's field of membership;
- The number of persons currently included within the group to be added and their locations; and
- The most recent copy of the group's charter and bylaws or equivalent documentation.

III.C—NCUA Procedures for Amending the Field of Membership

III.C.1—General

All requests for approval to amend a federal credit union's charter must be submitted to the appropriate regional director.

III.C.2—Regional Director's Decision

All amendment requests will be reviewed by NCUA staff in order to ensure conformance to NCUA policy.

In some cases, an on-site review by a staff member may be required by the regional director before acting on a proposed amendment. In addition, the regional director may, after taking into account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. The economic advisability of expanding the field of membership of a credit union with financial or operational problems must be carefully considered.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUSIF.

III.C.3—Regional Director Approval

If the requested amendment is approved by the regional director, the credit union will be issued an amendment to Section 5 of its charter.

III.C.4—Regional Director Disapproval

When a regional director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedures.

III.C.5—Appeal of Regional Director Decision

If a field of membership expansion, request to remove an exclusionary clause, merger, or spin-off is denied by the regional director, the federal credit union may appeal the decision to the NCUA Board.

An appeal must be sent to the appropriate regional office within 60 days of the date of denial and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but as a request for reconsideration by the regional director. The regional director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the regional director.

III.D—Mergers, Purchase and Assumptions, and Spin-offs

In general, other than the addition of common bond groups, there are three additional ways a federal credit union with a single associational common bond can expand its field of membership:

- By taking in the field of membership of another credit union through a common bond or emergency merger;
- By taking in the field of membership of another credit union through a common bond or emergency purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a common bond spin-off.

III.D.1—Mergers

Generally, the requirements applicable to field of membership expansions found in this section apply to mergers where the continuing credit union is a federal charter. That is, the two credit unions must share a common bond.

Where the merging credit union is state-chartered, the common bond rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

If a single associational credit union wants to merge into a multiple common bond or community credit union, Section IV.D or Section V.D of this Chapter, respectively, should be reviewed.

III.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to

common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or likely to become insolvent, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- the public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any common bond restrictions and without changing the character of the continuing federal credit union for future amendments. Under this authority, therefore, a single associational common bond federal credit union may take into its field of membership any dissimilar charter type.

The common bond characteristic of the continuing credit union in an emergency merger does not change. That is, even though the merging credit union is a multiple common bond or community, the continuing credit union will remain a single common bond credit union. Similarly, if the merging credit union is an unlike single common bond, the continuing credit union will remain a single common bond credit union. Future common bond expansions will be based on the continuing credit union's single common bond.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

III.D.3—Purchase and Assumptions (P&As)

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation. In the few instances where a P&A may be appropriate, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency merger criteria are satisfied. However, if the P&A does not meet the emergency merger criteria, it must be processed under the common bond requirements.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities, without regard to common bond restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the purchased and/or assumed credit union's field of membership does not share a common bond with the purchasing and/or assuming credit union, then the continuing credit union's original common bond will be controlling for future common bond expansions.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

III.D.4—Spin-Offs

Generally, a spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares and capital of a credit union, are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new credit union or goes to an existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the affected credit unions have the same common bond (applies only to single associational credit unions);
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see Part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. Voting requirements for federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable.

Spin-offs in the same region also require approval by the state regulator, as applicable.

III.E—Overlaps

III.E.1—General

An overlap exists when a group of persons is eligible for membership in two or more credit unions. As a general rule, NCUA will not charter two or more credit unions to serve the same single associational group. 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 clearly outweighs any adverse effect on the overlapped credit union. However, when two or more credit unions are attempting to serve the same associational group, an overlap can be permitted.

Proposed or existing credit unions must investigate the possibility of an overlap with federally insured credit unions prior to submitting an application for a proposed charter or expansion if the group(s) is greater than 200 primary potential members.

When an overlap situation does arise, officials of the involved credit unions must attempt to resolve the overlap issue. If the matter is resolved between the credit unions, the applicant must

submit a letter to that effect from the credit union whose field of membership already includes the subject group.

If no resolution is possible or the overlapped credit union fails to provide a letter, an application for a new charter or field of membership expansion may still be submitted, but must also include information regarding the overlap and documented attempts at resolution. Documentation on the interests of the group, such as a petition signed by a majority of the group's members, will be strongly considered.

An overlap will not be considered adverse to the overlapped credit union if:

- The group has 200 or less primary potential members or the overlap is otherwise incidental in nature—i.e., the group of persons in question is so small as to have no material effect on the original credit union;
- The overlapped credit union does not object to the overlap;
- There is limited participation by members of the group in the original credit union after the expiration of a reasonable period of time; or
- The field of membership is broadly stated, such as a national association.

In reviewing the overlap, the regional director will consider:

- The nature of the issue;
- Efforts made to resolve the matter;
- Financial effect on the overlapped credit union;
- The desires of the group(s);
- Whether the original credit union fails to provide requested service;
- The desire of the sponsor organization; and
- The best interests of the affected group and the credit union members involved.

Potential overlaps of a federally insured state credit union's field of membership by a federal credit union will generally be analyzed in the same way as if two federal credit unions were involved. Where a federally insured state credit union's field of membership is broadly stated, NCUA will exclude its field of membership from any overlap protection.

New charter applicants and every single associational common bond group which comes before the regional director for affiliation with an existing federal credit union must advise the regional director in writing whether the group is included within the field of membership of any other credit union except a community charter. This notification requirement is not applicable to groups with 200 or less primary potential members. If cases arise where the assurance given to a regional director concerning unavailability of credit union service is inaccurate, the misinformation is grounds for removal of the group from the federal credit union's charter.

NCUA will permit single associational federal credit unions to overlap community charters without performing an overlap analysis.

III.E.2—Overlap Issues as a Result of Organizational Restructuring

A federal credit union's field of membership will always be governed by the common bond descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the common bond described in Section 5.

Overlaps may occur as a result of restructuring or merger of the parent organization. Credit unions affected by organizational restructuring or merger should attempt to resolve overlap issues among themselves. If an agreement is reached, they must apply to NCUA for a modification of their fields of membership to reflect the groups each will serve. NCUA will make the final decision regarding field of membership amendments, taking into account the credit unions' agreements, safety and soundness concerns, the desires of the members, the significance of the overlap and other relevant issues.

III.E.3—Exclusionary Clauses

An exclusionary clause is a limitation which precludes the credit union from serving the primary members of a portion of a group otherwise included in its field of membership.

When two credit unions agree and/or NCUA has determined that overlap protection is appropriate for safety and soundness reasons, an exclusionary clause will be included in the expanding federal credit union's charter.

Exclusionary clauses are very difficult for credit unions and NCUA to monitor properly. Additionally, exclusionary clauses can be ineffective or create obvious inequities—one spouse may be eligible for membership in a federal credit union while the other may not; one member may be eligible for credit union service while another may not. If, for safety and soundness reasons, an exclusionary clause is appropriate, the overlap protection only applies to primary members, which may only provide limited protection.

One example of an appropriate use of an exclusionary clause may be where there is a merger of two labor unions served by two credit unions which will continue to serve their groups as they had prior to their sponsors' consolidation. The addition of an exclusionary clause to the field of membership of one or both of the credit unions may be the best way to clarify the division of service responsibility within the new corporate entity.

When an exclusionary clause is included in a federal credit union's field of membership, NCUA will define:

- The group to be excluded;
- Whether the exclusion is to apply to the entire group or only to those who are actually members of another credit union;
- Whether the exclusion is to apply only to the current members of the group or to future members as well; and
- Whether the exclusion is to apply for a limited time period.

Examples of exclusionary wording are:

- Members of K of C Council ι10, except members of the XYZ Federal Credit Union as of June 30, 1996; or
- Members of the American Bar Association, except those located in Washington, D.C.

Exclusionary clauses granted prior to the adoption of this new chartering manual will remain in effect unless the two credit unions agree to remove them, or a credit union petitions NCUA to remove an exclusionary clause. NCUA may remove the exclusionary clause if it determines that removal is in the best interests of the members and clearly outweighs any adverse effect on the overlapped credit union.

III.F—Charter Conversions

A single associational common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant federal credit union may be required to develop a detailed business plan as specified in Chapter 1, Section IV.D.

A single associational common bond federal credit union may apply to convert to a multiple common bond charter by adding a non common bond group that is within a reasonable proximity of a service facility. Groups

within the existing charter may be retained and continue to be served.

However, future amendments, including any expansions of the original single common bond group, must be done in accordance with multiple common bond policy.

A credit union will not be permitted to convert to another type of charter, except community charter, for three years after approval, unless the regional director determines that a charter conversion is necessary to resolve safety and soundness concerns.

III.G—Removal of Groups From the Field of Membership

A credit union may request removal of a portion of the common bond group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the overlapping field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit union or refuses to provide needed support; or * the group initiates action to be removed from the field of membership.

When a federal credit union requests an amendment to remove a group from its field of membership, the regional director will determine why the credit union wishes to remove the group and whether the existing members of the group will continue membership. If the regional director concurs with the request, membership may continue for those who are already members under the ''once a member, always a member'' provision of the Federal Credit Union Act.

III.H—Other Persons Sharing Common Bond

A number of persons by virtue of 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; Volunteers;
- Member of the immediate family or household; and
- Organizations of such persons.

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 in order 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 in order 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 virtue of their close relationship with a sponsor group, may be included. One example is volunteers working at a church.

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.

IV—Multiple Occupational/ Associational Common Bonds

IV.A.1—General

A federal credit union may be chartered to serve a combination of distinct, definable single occupational and/or associational common bonds. This type of credit union is called a multiple common bond credit union. Each group in the field of membership must have its own occupational or associational common bond. For example, a multiple common bond credit union may include two unrelated employers, or two unrelated associations, or a combination of two or more employers or associations. Additionally, these groups must be within reasonable geographic proximity of the credit union. That is, the groups must be within the service area of one of the credit union's service facilities. These groups are referred to as select groups. A multiple common bond credit union cannot expand using single common bond criteria.

A federal credit union's service area is the area that can reasonably be served by the service facilities accessible to the groups within the field of membership. The service area will most often coincide with that geographic area primarily served by the service facility. Additionally, the groups served by the credit union must have access to the service facility. A service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted, and loans are disbursed. This definition includes a credit union owned branch, a shared branch, a mobile branch, an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition does not include an ATM.

The select group as a whole will be considered to be within a credit union's service area when:

- A majority of the persons in a select group live, work, or gather regularly within the service area;
- The group's headquarters is located within the service area; or
- The group's ''paid from'' or ''supervised from'' location is within the service area.

IV.A.2—Sample Multiple Common Bond Field of Membership

An example of a multiple common bond field of membership is:

''The field of membership of this federal credit union shall be limited to the following:

1. Employees of Teltex Corporation who work in Wilmington, Delaware;
2. Partners and employees of Smith & Jones, Attorneys at Law, who work in Wilmington, Delaware;
3. Members of the M&L Association who live in Wilmington, Delaware, and qualify for membership in accordance with its charter and bylaws in effect on December 31, 1997.''

IV.B—Multiple Common Bond Amendments

IV.B.1—General

Section 5 of every multiple common bond federal credit union's charter defines the field of membership and select groups the credit union can legally serve. Only those persons or legal entities specified in the field of membership can be served. There are a number of instances in which Section 5 must be amended by NCUA.

First, a new select group is added to the field of membership. This may occur through agreement between the group

and the credit union directly, or through a merger, corporate acquisition, purchase and assumption (P&A), or spin-off.

Second, a federal credit union qualifies to change its charter from:

- A single occupational/associational charter to a multiple common bond charter;
- A multiple common bond to a single occupational/associational charter;
- A multiple common bond to a community charter; or
- A community to a multiple common bond charter.

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

IV.B.2—Numerical Limitation of Select Groups

An existing multiple common bond federal credit union that submits a request to amend its charter must provide documentation to establish that the multiple common bond requirements have been met. All amendments to a multiple common bond credit union's field of membership must be approved by the regional director.

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

- The credit union has not engaged in any unsafe or unsound practice, as determined by the regional director, which is material during the one year period preceding the filing to add the group;
- The credit union is ''adequately capitalized.'' NCUA defines adequately capitalized to mean if the credit union has a net worth ratio of not less than 6 percent. For low-income credit unions or credit unions chartered less than ten years, the regional director may determine that a net capital ratio of less than 6 percent is adequate if the credit union is making reasonable progress toward meeting the 6 percent net worth requirement.
- The 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;
- Any potential harm the expansion may have on any other credit union and its members is clearly outweighed by the probable beneficial effect of the expansion. With respect to a proposed expansion's effect on other credit unions, the requirements on overlapping fields of membership set forth in Section IV.E of this Chapter are also applicable; and
- If the formation of a separate credit union by such group is not practical and consistent with reasonable standards for the safe and sound operation of a credit union.

A more detailed analysis is required for groups of 3,000 or more primary potential members requesting to be added to a multiple common bond credit union. It is incumbent upon the credit union to demonstrate that the formation of a separate credit union by such a group 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 the economic advisability criteria outlined in Chapter 1. If this can be demonstrated, the group may be added to a multiple common bond credit union's field of membership.

IV.B.3—Documentation Requirements

A multiple common bond credit union requesting a select group expansion must submit a formal written request, using the Application for Field of Membership Amendment (NCUA 4015) to the appropriate NCUA regional director. If a credit union is adding a group of 200 or less primary potential members, then the NCUA 4015–EZ should be used. The request must be signed by an authorized credit union representative.

The NCUA 4015 (for groups in excess of 200 primary potential members) must be accompanied by the following:

- A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:
- The group's occupational or associational common bond;
- That the group wants to be added to the federal credit union's field of membership;
- Whether the group presently has other credit union service available;
- The number of persons currently included within the group to be added and their locations; and
- The group's proximity to credit union's nearest service facility.
- If the group is eligible for membership in any other credit union, documentation must be provided to support inclusion of the group under the overlap standards set forth in Section IV.E of this Chapter; and
- The most recent copy of the group's charter and bylaws or equivalent documentation (for associational groups).

The NCUA 4015–EZ (for groups of 200 or less primary potential members) must be accompanied by the following:

- A letter signed by an authorized representative of the group to be added. Wherever possible, this letter must be submitted on the group's letterhead stationery. The regional director may accept such other documentation or certification as deemed appropriate. This letter must indicate:
- How the group shares the credit union's occupational or associational common bond;
- That the group wants to be added to the applicant federal credit union's field of membership;
- The number of persons currently included within the group to be added and their locations; and
- The group's proximity to credit union's nearest service facility.
- The most recent copy of the group's charter and bylaws or equivalent documentation (for associational groups).

IV.B.4—Corporate Restructuring

If a select group within a federal credit union's field of membership undergoes a substantial restructuring, a change to the credit union's field of membership may be required if the credit union is to continue to provide service to the select group. NCUA permits a multiple common bond credit union to maintain in its field of membership a sold or spun-off select group to which it has been providing service, without regard to location, if the original group is clearly identifiable. This type of amendment to the credit union's charter is not considered an expansion, therefore the criteria relating to adding new groups are not applicable.

IV.C—NCUA'S Procedures for Amending the Field of Membership

IV.C.1—General

All requests for approval to amend a federal credit union's charter must be submitted to the appropriate regional director.

IV.C.2—Regional Director's Decision

All amendment requests will be reviewed by NCUA staff in order to ensure conformance to NCUA policy.

In some cases, an on-site review by a staff member may be required by the regional director before acting on a proposed amendment. In addition, the regional director may, after taking into

account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. An expanded field of membership may provide the basis for reversing adverse trends. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's adverse trends. The applicant credit union must clearly establish that the approval of the expanded field of membership meets the requirements of Section IV.B.2 of this Chapter and will not increase the risk to the NCUSIF.

IV.C.3—Regional Director Approval

If the requested amendment is approved by the regional director, the credit union will be issued an amendment to Section 5 of its charter.

IV.C.4—Regional Director Disapproval

When a regional director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedure.

IV.C.5—Appeal of Regional Director Decision

If a field of membership expansion, request to remove an exclusionary clause, merger, or spin-off is denied by the regional director, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the appropriate regional office within 60 days of the date of denial, and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The regional director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. The request will not be considered as an appeal, but as a request for reconsideration by the regional director. If the request is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of date of the last denial by the regional director.

IV.D—Mergers, Purchase amd Assumptions, and Spin-Offs

In general, other than the addition of select groups, there are three additional ways a multiple common bond federal credit union can expand its field of membership:

- By taking in the field of membership of another credit union through a merger;
- By taking in the field of membership of another credit union through a purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a spin-off.

IV.D.1—Voluntary Mergers

a. All select groups in the merging credit union's field of membership have less than 3,000 primary potential members.

A voluntary merger of two or more federal credit unions is permissible as long as each select group in the merging credit union's field of membership has less than 3,000 primary potential members. While the merger requirements outlined in Section 205 of the Federal Credit Union Act must still be met, the requirements of Chapter 2, Section IV.B.2 of this manual are not applicable.

b. One or more select groups in the merging credit union's field of membership has 3,000 or more primary potential members.

If the merging credit union has any groups consisting of 3,000 or more primary potential members, special requirements apply. NCUA will analyze each group of 3,000 or more primary potential members to determine whether the formation of a separate credit union by such a group is practical. If the formation of a separate credit union by such a group is not practical because the group lacks sufficient volunteer and other resources to support the efficient and effective operations of a credit union or does not meet the economic advisable criteria outlined in Chapter 1, the group may be merged into a multiple common bond credit union. If the formation of a separate credit union is practical, the group must be spun-off before the merger can be approved.

c. Merger of a single common bond credit union into a multiple common bond credit union.

A financially healthy single common bond credit union with a primary potential membership in excess of 3,000 primary potential members cannot merge into a multiple common bond credit union, absent supervisory reasons.

d. Merger Approval.

If the merger is approved, the qualifying groups within the merging credit union's field of membership will be transferred intact to the continuing credit union and can continue to be served.

Where the merging credit union is state-chartered, the field of membership rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

IV.D.2—Supervisory Mergers

The NCUA may approve the merger of any federally insured credit union when safety and soundness concerns are present without regard to the 3,000 numerical limitation. The credit union need not be insolvent or in danger of insolvency for NCUA to use this statutory authority.

IV.D.3—Emergency Mergers

An emergency merger may be approved by NCUA without regard to field of membership rules, the 3,000 numerical limitation, or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or likely to become insolvent, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the

continuing federal credit union without regard to any field of membership restrictions including numerical limitation requirements and without changing the character of the continuing federal credit union for future amendments. Under this authority, any single occupational/associational common bond, multiple common bond, or community charter may merger into a multiple common bond credit union and that credit union can continue to serve the merging credit union's field of membership. Subsequent field of membership expansions of the continuing multiple common bond credit union must be consistent with multiple common bond policies.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

IV.D.4—Purchase and Assumptions (P&As)

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. Generally, the requirements applicable to field of membership expansions found in this chapter apply to purchase and assumptions where the purchasing credit union is a federal charter.

A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation. However, in the few instances where a P&A may occur, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency criteria are satisfied. Specified loans, shares, and certain other designated assets and liabilities, without regard to field of membership restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments. Subsequent field of membership expansions must be consistent with multiple common bond policies.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

IV.D.5—Spin-Offs

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new charter or goes to an existing federal charter.

The request for approval of a spun-off group must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see Part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. Voting requirements for federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable. Spin-offs in the same region also require approval by the state regulator, as applicable.

IV.E—Overlaps

IV.E.1—General

An overlap exists when a group of persons is eligible for membership in two or more credit unions, including state charters. 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 clearly outweighs any adverse effect on the overlapped credit union.

Proposed or existing credit unions must investigate the possibility of an overlap with federally insured credit unions prior to submitting an application for a proposed charter or expansion if the group(s) is greater than 200 primary potential members. An overlap analysis is not required for groups with 200 or less primary potential members.

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. 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 generally not approve an overlap unless the expansion's beneficial effect in meeting the convenience and needs of the members of the group proposed to be included in field of membership clearly outweighs any adverse effect on the overlapped credit union.

In reviewing the overlap, the regional director will consider:

- The view of the overlapped credit union(s);
- Whether the overlap is incidental in nature—the group of persons in question is so small as to have no material effect on the original credit union;
- Whether there is limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time;
- Whether the original credit union fails to provide requested service;
- Financial effect on the overlapped credit union;
- The desires of the group(s);
- The desire of the sponsor organization; and
- The best interests of the affected group and the credit union members involved.

Generally, if the overlapped credit union does not object, and NCUA determines that there is no safety and soundness problem, the overlap will be permitted.

Potential overlaps of a federally insured state credit union's field of membership by a federal credit union will generally be analyzed in the same way as if two federal credit unions were involved. Where a federally insured state credit union's field of membership is broadly stated, NCUA will exclude its

field of membership from any overlap protection.

New charter applicants and every select group which comes before the regional director for affiliation with an existing federal credit union must advise the regional director in writing whether the group is included within the field of membership of any other credit union. This requirement is not applicable to groups with 200 or less primary potential members. If cases arise where the assurance given to a regional director concerning unavailability of credit union service is inaccurate, the misinformation is grounds for removal of the group from the federal credit union's charter.

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

IV.E.2—Overlap Issues as a Result of Organizational Restructuring

A federal credit union's field of membership will always be governed by the field of membership descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of any select group listed in Section 5. Where acquisitions are made which add a new subsidiary, the group cannot be served until the subsidiary is included in the field of membership.

Overlaps may occur as a result of restructuring or merger of the parent organization. When such overlaps occur, each credit union must request a field of membership amendment to reflect the new groups each wishes to serve. NCUA will review these requests as it does any select group addition. The credit union can continue to serve any current group in its field of membership that is acquiring a new group or has been acquired by a new group. The new group cannot be served by the credit union until the field of membership amendment is approved by NCUA.

In addition, credit unions must submit to NCUA documentation explaining the restructuring and providing information regarding the new organizational structure. To help in future monitoring of overlaps, the credit union must identify divisions and subsidiaries and the locations of each. Where the sponsor and its employees desire to continue service, NCUA may use wording such as the following:

- Employees of MHS Corporation, formerly a subsidiary of Tool, Incorporated, located in Charleston, South Carolina.

IV.E.3—Exclusionary Clauses

An exclusionary clause is a limitation which precludes the credit union from serving the primary members of a portion of a group otherwise included in its field of membership.

When NCUA determines that overlap protection is appropriate for safety and soundness reasons, an exclusionary clause will be included in the expanding federal credit union's charter.

Exclusionary clauses are very difficult for credit unions and NCUA to monitor properly. Additionally, exclusionary clauses can be ineffective or create obvious inequities—one spouse may be eligible for membership in a federal credit union while the other may not; one employee may be eligible for credit union service while a co-worker may not. If, for safety and soundness reasons, an exclusionary clause is appropriate, the overlap protection only applies to primary members, which may only provide limited protection.

One example of an appropriate use of an exclusionary clause may be where there is a merger of two corporations served by two credit unions which will continue to serve their groups as they had prior to their sponsors' consolidation. The addition of an exclusionary clause to the field of membership of one or both of the credit unions may be the best way to clarify the division of service responsibility within the new corporate entity.

When an exclusionary clause is included in a federal credit union's field of membership, NCUA will define:

- The identity of the group;
- Whether the exclusion is to apply to the entire group or only to those who are actually members of another credit union;
- Whether the exclusion is to apply only to the current members of the group or to future members as well; and

Whether the exclusion is to apply for a limited time period.

Examples of exclusionary wording are:

- Persons who work for Monty Sugar Company, except those who work in, are paid from, or are supervised from San Francisco, California.
- Persons who work for the EWJ Co., except those employed by the JEC Division as of June 30, 1997.
- Persons who work for KLB Co., except those who were members of the St. Bonaventure Federal Credit Union as of June 30, 1997.

Exclusionary clauses granted prior to the adoption of this new chartering manual will remain in effect unless the two credit unions agree to remove them, or a credit union petitions NCUA to remove an exclusionary clause. NCUA may remove the exclusionary clause if it determines that removal is in the best interests of the members and clearly outweighs any adverse effect on the overlapped credit union.

IV.F—Charter Conversion

A multiple common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant federal credit union may be required to develop a detailed business plan as specified in Chapter 1, Section IV.D.

A multiple common bond federal credit union may apply to convert to a single occupational or associational common bond charter provided the field of membership requirements of the new charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion.

Once a multiple common bond credit union converts to a single occupational or associational credit union, it cannot convert back to a multiple common bond credit union for a period of three years, unless there are safety and soundness concerns.

IV.G—Removal of Groups From the Field of Membership

A credit union may request removal of a group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the overlapping field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit union or refuses to provide needed support;

• The group initiates action to be removed from the field of membership; or

• The federal credit union wishes to convert to a single common bond.

When a federal credit union requests an amendment to remove a group from its field of membership, the regional director will determine why the credit union wishes to remove the group and whether the existing members of the group will continue membership. If the regional director concurs with the request, membership may continue for those who are already members under the ''once a member, always a member'' provision of the Federal Credit Union Act.

IV.H—Other Persons Sharing Common Bond

A number of persons, by virtue of 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 above employment;

Volunteers;

• Member of the immediate family or household; and

• Organizations of such persons.

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 in order 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 in order 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 virtue of their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or church.

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.

V—Community Charter Requirements

V.A.1—General

Community charters must be based on ''a well-defined local community, neighborhood, or rural district.'' NCUA policy is to limit the community to a single, geographically well-defined area where individuals have common interests or interact.

NCUA recognizes four types of affinity on which a community charter can be based—persons who live in, worship in, attend school in, or work in the community. Businesses and other legal entities within the community boundaries may also qualify for membership. More than one credit union may serve the same community. Given the diversity of community characteristics throughout the country and NCUA's goal of making credit union service available to all eligible groups who wish to have it, NCUA has established the following requirements for community charters:

• The geographic area's boundaries must be clearly defined;

• The charter applicant must establish that the area is a ''well-defined local, community, neighborhood, or rural district;'' and

• The residents must have common interests or interact.

V.A.2—Documentation Requirements

In addition to the documentation requirements set forth in Chapter 1 to charter a credit union, a community credit union applicant must provide special documentation addressing the proposed area to be served and community service policies.

A community credit union is unique in that it must meet the statutory requirements that the proposed community area is (1) well-defined, and (2) a local community, neighborhood, or rural district.

''Well-defined'' means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (or its political equivalent), or clearly identifiable neighborhood. Although congressional districts or other political boundaries which are subject to occasional change, and state boundaries are well-defined areas, they do not meet the second requirement that the proposed area be a local community, neighborhood, or rural district.

The meaning of local community, neighborhood, or rural district includes a variety of factors. Most prominent is the requirement that the residents of the proposed community area interact or have common interests. In determining interaction and/or common interests, a number of factors become relevant. For example, the existence of a single major trade area, shared governmental or civic facilities, or area newspaper is significant evidence of community interaction and/or common interests. Conversely, numerous trade areas, multiple taxing authorities, and multiple political jurisdictions, tend to diminish the characteristics of a local area.

Population and geographic size are also significant factors in determining whether the area is local in nature. A large population in a small geographic area or a small population in a large geographic area, may meet NCUA community chartering requirements. For example, an ethnic neighborhood, a rural area, a city, and a county with 300,000 or less residents will generally have sufficient interaction and/or common interests to meet community charter requirements. While this may most often be true, it does not preclude community charters consisting of multiple counties or local areas with populations of any size from meeting community charter requirements.

Conversely, a larger population in a large geographic area may not meet NCUA community chartering requirements. It is more difficult for a major metropolitan city, a densely populated county, or an area covering multiple counties with significant population to have sufficient interaction and/or common interests, and to therefore demonstrate that these areas meet the requirement of being ''local.'' In such cases, documentation supporting the interaction and/or common interests will be greater than the evidence necessary for a smaller and less densely populated area.

In most cases, the ''well-defined local community, neighborhood, or rural district'' requirement will be met if (1) the area to be served is in a recognized single political jurisdiction, i.e., a county or its political equivalent or any contiguous political subdivisions contained therein, and if the population

of the requested well-defined area does not exceed 300,000, or (2) the area to be served is in multiple contiguous political jurisdictions, i.e. a county or its political equivalent or any political subdivisions contained therein and if the population of the requested well-defined area does not exceed 200,000. If the proposed area meets either of these this criteria, the credit union must only submit a letter describing how the area meets the standards for community interaction or common interests.

If NCUA does not find sufficient evidence of community interaction or common interests, more detailed documentation will be necessary to support that the proposed area is a well-defined community. The credit union must also provide evidence of the political jurisdiction(s) and population. Evidence of the political jurisdiction(s) should include maps designating the area to be served. One map must be a regional or state map with the proposed community outlined. The other map must outline the proposed community and the identifying geographic characteristics of the surrounding areas.

If the area to be served does not meet the political jurisdiction(s) and population requirements of the preceding paragraph, or if required by NCUA, the application must include documentation to support that it is a well-defined local community, neighborhood, or rural district. It is the applicant's responsibility to demonstrate the relevance of the documentation provided in support of the application. This must be provided in a narrative summary. The narrative summary must explain how the documentation demonstrates interaction or common interests. For example, simply listing newspapers and organizations in the area is not sufficient to demonstrate that the area is a local community, neighborhood, or rural district.

Examples of acceptable documentation may include:

- The defined political jurisdictions;
- Major trade areas (shopping patterns and traffic flows);
- Shared/common facilities (for example, educational, medical, police and fire protection, school district, water, etc.);
- Organizations and clubs within the community area;
- Newspapers or other periodicals published for and about the area;
- Maps designating the area to be served. One map must be a regional or state map with the proposed community outlined. The other map must outline the proposed community and the identifying geographic characteristics of the surrounding areas;
- Common characteristics and background of residents (for example, income, religious beliefs, primary ethnic groups, similarity of occupations, household types, primary age group, etc.); or
- Other documentation that demonstrates that the area is a community where individuals have common interests or interact.

A community credit union is frequently more susceptible to competition from other local financial institutions and generally does not have substantial support from any single sponsoring company or association. As a result, a community credit union will often encounter financial and operational factors that differ from an occupational or associational charter. Its diverse membership may require special marketing programs targeted to different segments of the community. For example, the lack of payroll deduction creates special challenges in the development of savings promotional programs and in the collection of loans.

Accordingly, it is essential for the proposed community credit union to develop a detailed and practical business and marketing plan for at least the first two years of operation. The proposed credit union must not only address the documentation requirements set forth in Chapter 1, but also focus on the accomplishment of the unique financial and operational factors of a community charter.

Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plan submitted with their application.

V.A.3—Special Documentation Requirements for a Converting Credit Union

An existing federal credit union may apply to convert to a community charter. Groups currently in the credit union's field of membership but outside the new community credit union's boundaries may not be included in the new community charter. Therefore, the credit union is required to notify groups that will be removed from the field of membership as a result of the conversion. Members of record can continue to be served.

The documentation requirements set forth in Section V.A.2 of this Chapter must be met before a community charter can be approved. Demonstrating community support, as discussed in Chapter 1, is not required for converting credit unions. In order to support a case for a conversion to community charter, the applicant federal credit union must develop a business plan incorporating the following data:

- Current financial statements, including the income statement and a summary of loan delinquency;
- Pro forma financial statements for the first two years after the proposed conversion, including assumptions—e.g., member, share, loan, and asset growth;
- Marketing plan addressing how the community will be served;
- Financial services to be provided to members;
- Location of service facilities; and
- Anticipated financial impact on the credit union in terms of need for additional employees and fixed assets.

Before approval of an application to convert to a community credit union, NCUA must be satisfied that the institution will be viable and capable of providing services to its members.

V.A.4—Community Boundaries

The geographic boundaries of a community federal credit union are the areas defined in its charter, usually with north, east, south, and west boundaries.

A community that is a recognized legal entity, may be stated in the field of membership—for example, ''Gus Township, Texas'' or ''Kristi County, Virginia.''

V.A.5—Special Community Charters

A community field of membership may include persons who work or attend school in a particular industrial park, shopping mall, office complex, or similar development. The proposed field of membership must have clearly defined geographic boundaries.

V.A.6—Sample Community Fields of Membership

A community charter does not have to include all four affinities (i.e., live, work, worship, or attend school in a community). Some examples of community fields of membership are:

- Persons who live, work, worship, or attend school in, and businesses located in the area of Johnson City, Tennessee, bounded by Fern Street on the north, Long Street on the east, Fourth Street on the south, and Elm Avenue on the west;
- Persons who live or work in Green County, Maine;
- Persons who live, worship, or work in and businesses and other legal entities located in Independent School District No. 1, DuPage County, Illinois;
- Persons who live, worship, work, or attend school at the University of Dayton, in Dayton, Ohio; or

• Persons who work for businesses located in Clifton Country Mall, in Clifton Park, New York.

Some examples of insufficiently defined community field of membership definitions are:

• Persons who live or work within and businesses located within a ten-mile radius of Washington, DC (using a radius does not establish a well-defined area); or

• Persons who live or work in the industrial section of New York, New York (not a well-defined neighborhood, community, or rural district).

Some examples of unacceptable local communities, neighborhoods, or rural districts are:

• Persons who live or work in the Greater Boston Metropolitan Area (does not meet the definition of local community, neighborhood, or rural district).

• Persons who live or work in the State of California (does not meet the definition of local community, neighborhood, or rural district).

V.B—Field of Membership Amendments

A community credit union may amend its field of membership by redefining its geographic boundaries, including additional affinities, or removing exclusionary clauses. Persons who live, work, worship, or attend school within the proposed well-defined local community, neighborhood or rural district must have common interests or interact. The burden of proof for establishing existence of the community is placed upon the applicant credit union.

Prior to granting a field of membership expansion, NCUA will examine the expansion's potential effect on the credit union's operations and financial condition and its likely impact on any newly chartered credit unions in the proposed service area.

Generally, if a community credit union applies to amend its geographic boundaries, or an occupational or associational credit union applies to convert to a community charter, an NCUA staff member will make an on-site evaluation of the proposal.

V.C—NCUA Procedures for Amending the Field of Membership

V.C.1—General

All requests for approval to amend a community credit union's charter must be submitted to the appropriate regional director. If a decision cannot be made within a reasonable period of time, the regional director will notify the credit union.

V.C.2—NCUA's Decision

The financial and operational condition of the requesting credit union will be considered in every instance. The economic advisability of expanding the field of membership of a credit union with financial or operational problems must be carefully considered.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUSIF.

V.C.3—NCUA Approval

If the requested amendment is approved by NCUA, the credit union will be issued an amendment to Section 5 of its charter.

V.C.4—NCUA Disapproval

When NCUA disapproves any application to amend the field of membership, in whole or in part, under this chapter, the applicant will be informed in writing of the:

• Specific reasons for the action;

• If appropriate, options or suggestions that could be considered for gaining approval; and

• Appeal procedures.

V.C.5—Appeal of Regional Director Decision

If a field of membership expansion, request to remove an exclusionary clause, merger, or spin-off is denied by the regional director, the federal credit union may appeal the decision to the NCUA Board.

An appeal must be sent to the appropriate regional office within 60 days of the date of denial and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but a request for reconsideration by the regional director. The regional director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the charter amendment is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the regional director.

V.D—Mergers, Purchase and Assumptions, and Spin-Offs

There are three additional ways a community federal credit union can expand its field of membership:

• By taking in the field of membership of another credit union through a merger;

• By taking in the field of membership through a purchase and assumption (P&A); or

• By taking a portion of another credit union's field of membership through a spin-off.

V.D.1—Standard Mergers

Generally, the requirements applicable to field of membership expansions apply to mergers where the continuing credit union is a community federal charter.

Where both credit unions are community charters, the continuing credit union must meet the criteria for expanding the community boundaries. A community credit union cannot merge into a single occupational/associational, or multiple common bond credit union, except in an emergency merger. However, a single occupational/associational, or multiple common bond credit union can merge into a community charter as long as the merging credit union has a service facility within the community boundaries or a majority of the merging credit union's field of membership would qualify for membership in the new community charter. While a community charter may take in an occupational, associational, or multiple common bond credit union in a merger, it will remain a community charter.

Groups within the merging credit union's field of membership located outside of the community boundaries may not continue to be served. The merging credit union must nofify groups that will be removed from the field of membership as a result of the merger. However, the credit union may continue to serve members of record.

Where a state credit union is merging into a community federal credit union, the continuing federal credit union's

field of membership will be worded in accordance with NCUA policy. Any subsequent field of membership expansions must comply with applicable amendment procedures.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

V.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to field of membership requirements or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or likely to become insolvent, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record keeping; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any field of membership restrictions, including the service facility requirement, without changing the character of the continuing federal credit union for future amendments. Under this authority, a federal credit union may take in any dissimilar field of membership.

Even though the merging credit union is a single common bond credit union or multiple common bond credit union or community credit union, the continuing credit union will remain a community charter. Future community expansions will be based on the continuing credit union's original community area.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

V.D.3—Purchase and Assumptions (P&As)

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. Generally, the requirements applicable to community expansions found in this chapter apply to purchase and assumptions where the purchasing credit union is a federal charter.

A P&A has limited application because, in most instances, the failing credit union must be placed into involuntary liquidation. However, in the few instances where a P&A may occur, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency criteria are satisfied.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities may also be acquired without regard to field of membership restrictions and without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the P&A does not meet the emergency criteria, then only members of record can be obtained unless they otherwise qualify for membership in the community charter.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

V.D.4—Spin-Offs

Generally, a spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares and capital of a credit union, are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All field of membership requirements apply regardless of whether the spun-off group goes to a new or existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the field of membership requirements are met;
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a portion of the community, membership notice and voting requirements and procedures are the same as for mergers (see Part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. Voting requirements for federally insured state credit unions are governed by state law.

V.E—Overlaps

V.E.1—General

Generally, an overlap exists when a group of persons is eligible for membership in two or more credit unions, including state charters. In general, no overlap protection will be provided to single occupational and associational common bond, multiple common bond, and community credit unions from another community charter.

A newly chartered single or multiple common bond credit union that has been in existence less than two years will be provided overlap protection from a newly chartered or converted federal community charter for a period of 12 to 24 months from the effective date of the overlapped credit union's charter. If safety and soundness concerns exist, overlap protection can be extended by the regional director for a period not to exceed 60 months from the date of charter. This moratorium will provide an opportunity for the new charter to remain economically viable. An exclusionary clause is not required if the overlapped credit union agrees to the overlap.

V.E.2—Exclusionary Clauses

Exclusionary clauses are rarely appropriate for inclusion in a community credit union's field of membership and may only be granted for newly chartered single and multiple common bond credit unions. Exclusionary clauses granted prior to the adoption of this new chartering manual will remain in effect unless the two credit unions agree to remove them, or one of the affected credit unions petitions NCUA to remove an exclusionary clause and NCUA determines that removal is in the best interests of the members.

V.F—Charter Conversions

Although rare, a community federal credit union may convert to a single occupational or associational, or multiple common bond credit union. The converting credit union must meet all occupational, associational, and multiple common bond requirements, as applicable. The converting credit union may continue to serve members of record of the prior field of membership as of the date of the conversion, and any groups or communities obtained in an emergency merger or P&A. A change to the credit union's field of membership and designated common bond will be necessary.

V.G—Other Persons With a Relationship to the Community

A number of persons who have a close relationship to the community 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;
- Volunteers in the community;
- Member of the immediate family or household; and
- Organizations of such persons.

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 in order 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 in order 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.

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.

CHAPTER 3—LOW-INCOME CREDIT UNIONS AND CREDIT UNIONS SERVING UNDERSERVED AREAS

I—Introduction

One of the primary reasons for the creation of federal credit unions is to make credit available to people of modest means for provident and productive purposes. To help NCUA fulfill this mission, the agency has established special operational policies for federal credit unions that serve low-income groups and underserved areas. The policies provide a greater degree of flexibility that will enhance and invigorate capital infusion into low-income groups, low-income communities, and underserved areas. These unique policies are necessary to provide credit unions serving low-income groups with financial stability and potential for controlled growth and to encourage the formation of new charters as well as the delivery of credit union services in low-income communities.

II—Low-Income Credit Union

II.A—Defined

A low-income credit union is defined in Section 701.34 of the NCUA Rules and Regulations as one where a majority of its members either earn less than 80 percent of the average for all wage earners as established by the Bureau of Labor Statistics, or whose annual household income falls at or below 80 percent of the median household income for the nation. The term ''low income'' also includes members who are full-time or part-time students in a college, university, high school, or vocational school.

To obtain a low-income designation from NCUA, an existing credit union must establish that a majority of its members meet the low-income definition. An existing community credit union that serves a geographic area where a majority of residents meet the annual income standard is presumed to be serving predominantly low-income members. A low-income designation for a new credit union charter may be based on a majority of the potential membership. The low-income qualification must be maintained in order to retain the low-income designation.

II.B—Special Programs

Credit unions with a low-income designation (except student credit unions) have greater flexibility in accepting non member deposits insured by the NCUSIF, and may offer secondary capital accounts to strengthen its capital base. It also may participate in special funding programs such as the Community Development Revolving Loan Program for Credit Unions (CDRLP) if it is involved in the stimulation of economic development and community revitalization efforts.

The CDRLP provides both loans and grants for technical assistance to low-income credit unions. The requirements for participation in the revolving loan program are in Part 705 of the NCUA Rules and Regulations. Only operating credit unions are eligible for participation in this program.

II.C—Low-Income Documentation

A federal credit union charter applicant or existing credit union wishing to receive a low-income designation should forward a separate request for the designation to the regional director, along with appropriate documentation supporting the request.

For community charter applicants, the supporting material should include the median household income or annual wage figures for the community to be served. If this information is unavailable, the applicant should identify the individual zip codes or census tracts that comprise the community and NCUA will assist in obtaining the necessary demographic data.

Similarly, if single occupational or associational or multiple common bond charter applicants cannot supply income data on its potential members, they should provide the regional director with a list which includes the number of potential members, sorted by their residential zip codes, and NCUA will assist in obtaining the necessary demographic data.

An existing credit union can perform a loan or membership survey to determine if the credit union is primarily serving low-income members.

II.D—Third Party Assistance

A low-income federal credit union charter applicant may contract with a third party to assist in the chartering and low-income designation process. If the charter is granted, a low-income credit union may contract with a third party to provide necessary management services. Such contracts should not exceed the duration of one year subject to renewal.

II.E—Special Rules for Low-Income Federal Credit Unions

In recognition of the unique efforts needed to help make credit union service available to low-income groups, NCUA has adopted special rules that pertain only to low-income credit union charters, as well as field of membership additions for low-income credit unions. These special rules provide additional latitude to enable underserved, low-income individuals to gain access to credit union service.

NCUA permits credit union chartering and field of membership amendments based on associational groups formed for the sole purpose of making credit union service available to low-income persons. The association must be defined so that all of its members will meet the low-income definition of Section 701.34 of the NCUA Rules and Regulations. Any multiple common bond credit union can add low-income associations to their fields of membership.

A low-income community federal credit union has additional latitude in serving persons who are affiliated with the community. In addition to serving members who live, work, worship, or go to school in the community, a low-income community federal credit union may also serve persons who perform volunteer services, participate in programs to alleviate poverty or distress, or who participate in associations headquartered in the community.

Examples of a low-income community and an associational based low-income federal credit union are as follows:

- Persons who live in [the target area]; persons who regularly work, worship, attend school, perform volunteer services, or participate in associations headquartered in [the target area]; persons participating in programs to alleviate poverty or distress which are located in [the target area]; incorporated and unincorporated organizations located in [the target area] or maintaining a facility in [the target area]; and organizations of such persons.
- Members of the Canarsie Economic Assistance League, in Brooklyn, NY, an association whose members all meet the low-income definition of Section 701.34 of the NCUA Rules and Regulations.

III—Service to Underserved Communities

All federal credit unions may include in their fields of membership, without regard to location, communities satisfying the definition for serving underserved areas in the Federal Credit Union Act. More than one federal credit union can serve the same underserved area. The Federal Credit Union Act defines an underserved area as 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.

An investment area includes any of the following:

- An area encompassed or located in an Empowerment Zone or Enterprise Community designated under section 1391 or the Internal Revenue Code of 1996 (26 U.S.C. 1391);
- An area where the percentage of the population living in poverty is at least 20 percent and the area has significant unmet needs for loans or equity investments;
- An area in a Metropolitan Area where the median family income is at or below 80 percent of the Metropolitan Area median family income or the national Metropolitan Area median family income, whichever is greater; and the area has significant unmet needs for loans or equity investments;
- An area outside of a Metropolitan Area, where the median family income is at or below 80 percent of the statewide non-Metropolitan Area median family income or the national non-Metropolitan Area median family income, whichever is greater; and the area has significant unmet needs for loans or equity investments;
- An area where the unemployment rate is at least 1.5 times the national average and the area has significant unmet needs for loans or equity investments;
- An area where the percentage of occupied distressed housing (as indicated by lack of complete plumbing and occupancy of more than one person per room) is at least 20 percent and the area has significant unmet needs for loans or equity investments;
- An area located outside of a Metropolitan Area with a county population loss between 1980 and 1990 of at least 10 percent and the area has significant unmet needs for loans or equity investments.

In addition, the local community, neighborhood, or rural district must be underserved, based on data considered by the NCUA Board and the Federal banking agencies.

Once an underserved area has been added to a federal credit union's field of membership, the credit union must establish and maintain an office or facility in the community. A service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted and loans are disbursed. This definition includes a credit union owned branch, a shared branch, a mobile branch, an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition does not include an ATM.

The federal credit union adding the underserved community must document that the community meets the definition for serving underserved areas in the Federal Credit Union Act. The charter type of a federal credit union adding such a community will not change and therefore the credit union will not be able to receive the benefits afforded to low-income designated credit unions, such as expanded use of non member deposits and access to the Community Development Revolving Loan Program for Credit Unions.

A federal credit union that desires to include an underserved community in its field of membership must first develop a business plan specifying how it will serve the community. The business plan, at a minimum, must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan, to determine if the community is being adequately served. The regional director may require periodic service status reports from a credit union about the underserved area to ensure that the needs of the underserved area are being met as well as requiring such reports before NCUA allows a federal credit union to add an additional underserved area.

CHAPTER 4—CHARTER CONVERSIONS

I—Introduction

A charter conversion is a change in the jurisdictional authority under which a credit union operates.

Federal credit unions receive their charters from NCUA and are subject to its supervision, examination, and regulation.

State-chartered credit unions are incorporated in a particular state, receiving their charter from the state agency responsible for credit unions and subject to the state's regulator. If the state-chartered credit union's deposits are federally insured it will also fall under NCUA's jurisdiction.

A federal credit union's power and authority are derived from the Federal Credit Union Act and NCUA Rules and Regulations. State-chartered credit unions are governed by state law and regulation. Certain federal laws and regulations also apply to federally insured state chartered credit unions.

There are two types of charter conversions: federal charter to state charter and state charter to federal charter. Common bond and community requirements are not an issue from NCUA's standpoint in the case of a federal to state charter conversion. The procedures and forms relevant to both types of charter conversion are included in Appendix D.

II—Conversion of a State Credit Union to a Federal Credit Union

II.A—General Requirements

Any state-chartered credit union may apply to convert to a federal credit union. In order to do so it must:

- Comply with state law regarding conversion;
- File proof of compliance with NCUA;
- File the required conversion application, proposed federal credit union organization certificate, and other documents with NCUA;
- Comply with the requirements of the Federal Credit Union Act, e.g., chartering and reserve requirements; and
- Be granted federal share insurance by NCUA.

Conversions are treated the same as any initial application for a federal charter, including mandatory on-site examination by NCUA. NCUA will also consult with the appropriate state authority regarding the credit union's current financial condition, management expertise, and past performance. Since the applicant in a conversion is an ongoing credit union, the economic advisability of granting a charter is more readily determinable than in the case of an initial charter applicant.

A converting state credit union's field of membership must conform to NCUA's chartering policy. The field of membership will be phrased in accordance with NCUA chartering policy. Subsequent changes must conform to NCUA chartering policy in effect at that time. The converting credit union may continue to serve members of record.

If the converting credit union is a community charter and the new federal charter is community-based, it must meet the community field of membership requirements set forth in Chapter 2, Section V. If the state chartered credit union's community boundary is more expansive than the approved federal boundary, only members of record outside of the new community boundary may continue to be served.

II.B—Submission of Conversion Proposal to NCUA

The following actions must be taken before submitting a conversion proposal:

- The credit union board must approve a proposal for conversion.
- The Application to Convert (NCUA 4401) must be completed. Its purpose is to provide the regional director with information on the present operating policies and financial condition of the credit union and the reasons why the conversion is desired. A continuation sheet may be used if space on the form is inadequate. Particular attention should be given to answering the question on the reasons for conversion. These reasons should be stated in specific terms, not as generalities.
- The application must be accompanied by all required attachments including the following:
- Written evidence regarding whether the state regulator is in agreement with the conversion proposal;
- The Application and Agreements for Insurance of Accounts (NCUA 9500);
- The Federal Credit Union Investigation Report, Conversion of State Charter to Federal Charter (NCUA 4000);
- The most current financial report and delinquent loan schedule; and
- The Organization Certificate (NCUA 4008). Only Part (3) and the signature/notary section of page 4 should be completed and, where applicable, signed by the credit union officials. The NCUA regional office will complete the other sections of this document.

If the state charter is applying to become a federal community charter, it must also comply with the documentation requirements included in Chapter 2, Sections V.A.2 and V.A.3.

II.C—NCUA Consideration of Application to Convert

II.C.1—Review by the Regional Director

The application will be reviewed to determine that it is complete and that the proposal is in compliance with Section 125 of the Federal Credit Union Act. This review will include a determination that the state credit union's field of membership is in compliance with NCUA's chartering policies. The regional director may make further investigation into the proposal and may require the submission of additional information to support the request to convert. At this point, NCUA will conduct an on-site review of the credit union.

II.C.2—On-Site Review

NCUA will conduct an on-site examination of the books and records of the credit union. Non-federally insured credit unions will be assessed an insurance application fee.

II.C.3—Approval by the Regional Director and Conditions to the Approval

The conversion will be approved by the regional director if it is in compliance with Section 125 of the Federal Credit Union Act and meets the criteria for federal insurance. Where applicable, the regional director will specify any special conditions that the credit union must meet in order to convert to a federal charter, including changes to the credit union's field of membership in order to conform to NCUA's chartering policies. Some of these conditions may be set forth in a Letter of Understanding and Agreement (LUA), which requires the signature of the officials and the regional director.

II.C.4—Notification

The regional director will notify both the credit union and the state regulator of the decision on the conversion.

II.C.5—NCUA Disapproval

When NCUA disapproves any application to convert to a federal charter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedures.

II.C.6—Appeal of Regional Director Decision

If a conversion to a federal charter is denied by the regional director, the applicant credit union may appeal the decision to the NCUA Board. An appeal must be sent to the appropriate regional office within 60 days of the date of denial and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review

of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but a request for reconsideration by the regional director. The regional director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the application is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the regional director.

II.D—Action by Board of Directors

II.D.1—General

Upon being informed of the regional director's preliminary approval, the board must:

- Comply with all requirements of the state regulator that will enable the credit union to convert to a federal charter and cease being a state credit union;
- Obtain a letter or official statement from the state regulator certifying that the credit union has met all of the state requirements and will cease to be a state credit union upon its receiving a federal charter. A copy of this document must be submitted to the regional director;
- Obtain a letter from the private share insurer (includes excess share insurers), if applicable, certifying that the credit union has met all withdrawal requirements. A copy of this document must be submitted to the regional director; and
- Submit a statement of the action taken to comply with any conditions imposed by the regional director in the preliminary approval of the conversion proposal and, if applicable, submit the signed LUA.

II.D.2—Application for a Federal Charter

When the regional director has received evidence that the board of directors has satisfactorily completed the actions described above, the federal charter and new Certificate of Insurance will be issued.

The credit union may then complete the conversion as discussed in the following section. A denial of a conversion application can be appealed. (See Chapter 1, section VII.D)

II.E—Completion of the Conversion

II.E.1—Effective Date of Conversion

The date on which the regional director approves the Organization Certificate and the Application and Agreements for Insurance of Accounts is the date on which the credit union becomes a federal credit union. The regional director will notify the credit union and the state regulator of the date of the conversion.

II.E.2—Assumption of Assets and Liabilities

As of the effective date of the conversion, the federal credit union will be the owner of all of the assets and will be responsible for all of the liabilities and share accounts of the state credit union.

II.E.3—Board of Directors' Meeting

Upon receipt of its federal charter, the board will hold its first meeting as a federal credit union. At this meeting, the board will transact such business as is necessary to complete the conversion as approved and to operate the credit union in accordance with the requirements of the Federal Credit Union Act and NCUA Rules and Regulations.

As of the commencement of operations, the accounting system, records, and forms must conform to the standards established by NCUA.

II.E.4—Credit Union's Name

Changing of the credit union's name on all signage, records, accounts, investments, and other documents should be accomplished as soon as possible after conversion. The credit union has 180 days from the effective date of the conversion to change its signage and promotional material. This requires the credit union to discontinue using any remaining stock of ''state credit union'' stationery immediately, and discontinue using credit cards, ATM cards, etc. within 180 days after the effective date of the conversion, or the reissue date—whichever is later. The regional director has the discretion to extend the timeframe for an additional 180 days. Member share drafts with the state chartered name can be used by the member until depleted.

II.E.5—Reports to NCUA

Within 10 business days after commencement of operations, the recently converted federal credit union must submit to the regional director the following:

- Report of Officials (NCUA 4501); and
- Financial and Statistical Reports, as of the commencement of business of the federal credit union.

III—Conversion of a Federal Credit Union to a State Credit Union

III.A—General Requirements

Any federal credit union may apply to convert to a state credit union. In order to do so, it must:

- Notify NCUA prior to commencing the process to convert to a state charter and state the reason(s) for the conversion;
- Comply with the requirements of Section 125 of the Federal Credit Union Act that enable it to convert to a state credit union and to cease being a federal credit union; and
- Comply with applicable state law and the requirements of the state regulator.

It is important that the credit union provide an accurate disclosure of the reasons for the conversion. These reasons should be stated in specific terms, not as generalities.

III.B—Special Provisions Regarding Federal Share Insurance

If the federal credit union intends to continue federal share insurance after the conversion to a state credit union, it must submit an Application for Insurance of Accounts (NCUA 9600) to the regional director at the time it requests approval of the conversion proposal. The regional director has the authority to approve or disapprove the application.

If the converting federal credit union does not intend to continue federal share insurance or if its application for continued insurance is denied, insurance will cease in accordance with the provisions of Section 206 of the Federal Credit Union Act.

If, upon its conversion to a state credit union, the federal credit union will be terminating its federal share insurance or converting from federal to non-federal share insurance, it must comply with the membership notice and voting procedures set forth in Section 206 of the Federal Credit Union Act and Part 708 of NCUA's Rules and Regulations, and address the criteria set forth in Section 205(c) of the Federal Credit Union Act.

Where the state credit union will be non-federally insured, federal insurance ceases on the effective date of the charter conversion. If it will be otherwise uninsured, then federal insurance will cease one year after the date of conversion subject to the restrictions in Section 206(d)(1) of the Federal Credit Union Act. In either case, the state credit union will be entitled to a refund of the federal credit union's NCUSIF capitalization deposit after the

final date on which any of its shares are federally insured.

The NCUA Board reserves the right to delay the refund of the capitalization deposit for up to one year if it determines that payment would jeopardize the NCUSIF.

III.C—Submission of Conversion Proposal to NCUA

Upon approval of a proposition for conversion by a majority vote of the board of directors at a meeting held in accordance with the federal credit union's bylaws, the conversion proposal will be submitted to the regional director and will include:

- A current financial report;
- A current delinquent loan schedule;
- An explanation and appropriate documents relative to any changes in insurance of member accounts;
- A resolution of the board of directors;
- A proposed Notice of Special Meeting of the Members (NCUA 4221);
- A copy of the ballot to be sent to all members (NCUA 4506);
- Evidence that the state regulator is in agreement with the conversion proposal; and
- A statement of reasons supporting the request to convert.

III.D—Approval of Proposal to Convert

III.D.1—Review by the Regional Director

The proposal will be reviewed to determine that it is complete and is in compliance with Section 125 of the Federal Credit Union Act. The regional director may make further investigation into the proposal and require the submission of additional information to support the request.

III.D.2—Conditions to the Approval

The regional director will specify any special conditions that the credit union must meet in order to proceed with the conversion.

III.D.3—Approval by the Regional Director

The proposal will be approved by the regional director if it is in compliance with Section 125 and, in the case where the state credit union will no longer be federally insured, the notice and voting requirements of Section 206 of the Federal Credit Union Act.

III.D.4—Notification

The regional director will notify both the credit union and the state regulator of the decision on the proposal.

III.D.5—NCUA Disapproval

When NCUA disapproves any application to convert to a state charter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedures.

III.D.6—Appeal of Regional Director Decision

If a conversion to a state charter is denied by the regional director, the applicant credit union may appeal the decision to the NCUA Board. An appeal must be sent to the appropriate regional office within 60 days of the date of denial and must address the specific reason(s) for the denial. The regional director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the regional director for reconsideration. The request will not be considered as an appeal, but a request for reconsideration by the regional director. The regional director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the application is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the regional director.

III.E—Approval of Proposal by Members

The members may not vote on the proposal until it is approved by the regional director. Once approval of the proposal is received, the following actions will be taken by the board of directors:

- The proposal must be submitted to the members for approval and a date set for a meeting to vote on the proposal. The proposal may be acted on at the annual meeting or at a special meeting for that purpose. The members must also be given the opportunity to vote by written ballot to be filed by the date set for the meeting.
- Members must be given advance notice (NCUA 4221) of the meeting at which the proposal is to be submitted. The notice must:
- Specify the purpose, time and place of the meeting;
- Include a brief, complete, and accurate statement of the reasons for and against the proposed conversion, including any effects it could have upon share holdings, insurance of member accounts, and the policies and practices of the credit union;
- Specify the costs of the conversion, i.e., changing the credit union's name, examination and operating fees, attorney and consulting fees, tax liability, etc.;
- Inform the members that they have the right to vote on the proposal at the meeting, or by written ballot to be filed not later than the date and time announced for the annual meeting, or at the special meeting called for that purpose;
- Be accompanied by a Ballot for Conversion Proposal (NCUA 4506); and
- State in bold face type that the issue will be decided by a majority of members who vote.
- The proposed conversion must be approved by a majority of all of the members who vote on the proposal, a quorum being present, in order for the credit union to proceed further with the proposition, provided federal insurance is maintained. If the proposed state chartered credit union will not be federally insured, 20 percent of the total membership must participate in the voting, and of those, a majority must vote in favor of the proposal. Ballots cast by members who did not attend the meeting but who submitted their ballots in accordance with instructions above will be counted with votes cast at the meeting. In order to have a suitable record of the vote, the voting at the meeting should be by written ballot as well.
- The board of directors shall, within 10 days, certify the results of the membership vote to the regional director. The statement shall be verified by affidavits of the Chief Executive Officer and the Recording Officer on NCUA 4505.

III.F—Compliance With State Laws

If the proposal for conversion is approved by a majority of all members who voted, the board of directors will:

- Ensure that all requirements of state law and the state regulator have been accommodated;
- Ensure that the state charter or the license has been received within 90 days from the date the members approved the proposal to convert; and
- Ensure that the regional director is kept informed as to progress toward conversion and of any material delay or of substantial difficulties which may be encountered.

If the conversion cannot be completed within the 90-day period, the regional director should be informed of the reasons for the delay. The regional director may set a new date for the conversion to be completed.

III.G—Completion of Conversion

In order for the conversion to be completed, the following steps are necessary:

- The board of directors will submit a copy of the state charter to the regional director within 10 days of its receipt. This will be accompanied by the federal charter and the federal insurance certificate. A copy of the financial reports as of the preceding month-end should be submitted at this time.
- The regional director will notify the credit union and the state regulator in writing of the receipt of evidence that the credit union has been authorized to operate as a state credit union.
- The credit union shall cease to be a federal credit union as of the effective date of the state charter.
- If the regional director finds a material deviation from the provisions that would invalidate any steps taken in the conversion, the credit union and the state regulator shall be promptly notified in writing. This notice may be either before or after the copy of the state charter is filed with the regional director. The notice will inform the credit union as to the nature of the adverse findings. The conversion will not be effective and completed until the improper actions and steps have been corrected.
- Upon ceasing to be a federal credit union, the credit union shall no longer be subject to any of the provisions of the Federal Credit Union Act, except as may apply if federal share insurance coverage is continued. The successor state credit union shall be immediately vested with all of the assets and shall continue to be responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place. Operation of the credit union from this point will be in accordance with the requirements of state law and the state regulator.
- If the regional director is satisfied that the conversion has been accomplished in accordance with the approved proposal, the federal charter will be canceled.
- There is no federal requirement for closing the records of the federal credit union at the time of conversion or for the manner in which the records shall be maintained thereafter. The converting credit union is advised to contact the state regulator for applicable state requirements.
- The credit union shall neither use the words ''Federal Credit Union'' in its name nor represent itself in any manner as being a federal credit union.
- Changing of the credit union's name on all signage, records, accounts, investments, and other documents should be accomplished as soon as possible after conversion. Unless it violates state law, the credit has 180 days from the effective date of the conversion to change its signage and promotional material. This requires the credit union to discontinue using any remaining stock of ''federal credit union'' stationery immediately, and discontinue using credit cards, ATM cards, etc. within 180 days after the effective date of the conversion, or the reissue date—whichever is later. The regional director has the discretion to extend the timeframe for an additional 180 days. Member share drafts with the federal chartered name can be used by the member until depleted. If the state credit union is not federally insured, it must change its name and must immediately cease using any credit union documents referencing federal insurance.
- If the state credit union is to be federally insured, the regional director will issue a new insurance certificate.

Appendix A—Glossary

These definitions apply only for use with this Manual. Definitions are not intended to be all inclusive or comprehensive. This Manual, the Federal Credit Union Act, and NCUA Rules and Regulations, as well as state laws, may be used for further reference.

Adequately capitalized—A credit union is considered adequately capitalized when it has a net worth ratio of at least 6 percent. A multiple common bond credit union must be adequately capitalized in order to add new groups to its charter.

Affinity—A relationship upon which a community charter is based. Acceptable affinities include living, working, worshiping, or attending school in a community.

Appeal—The right of a credit union or charter applicant to request a formal review of a regional director's adverse decision by the National Credit Union Administration Board.

Association common bond—A common bond comprised of members and employees of a recognized association. It includes individuals (natural persons) and/or groups (non natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.

Business plan—Plan submitted by a charter applicant or existing federal credit union addressing the economy advisability of a proposed charter or field of membership addition.

Charter—The document which authorizes a group to operate as a credit union and defines the fundamental limits of its operating authority, generally including the persons the credit union is permitted to accept for membership. Charters are issued by the National Credit Union Administration for federal credit unions and by the designated state chartering authority for credit unions organized under the laws of that state.

Common bond—The Characteristic or combination of a 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 or related companies; 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.

Credit union—A member-owned, not-for-profit cooperative financial institution formed to permit those in the field of membership specified in the charter to save, borrow, and obtain related financial services.

Economic advisability—An overall evaluation of the credit union's or charter applicant's ability to operate successfully.

Emergency merger—Pursuant to Section 205(h) of the Federal Credit Union Act, authority of NCUA to merge two credit unions without regard to common bond policy.

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. Exclusionary clauses are used to prevent certain overlaps of fields of membership between credit unions.

Federal share insurance—Insurance coverage provided by the National Credit Union Share Insurance Fund and administered by the National Credit Union Administration. Coverage is provided for qualified accounts in all federal credit unions and participating state credit unions.

Field of membership—The persons (including organizations and other legal entities) a credit union is permitted to accept for membership.

Household—Persons living in the same residence maintaining a single economic unit.

Immediate family member—A spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Letter of Understanding and Agreement—Agreement between NCUA and federal credit union officials not to engage in certain activities and/or to establish reasonable operational goals. These are normally entered into with new charter applicants for a limited time.

Low income credit union—A low-income credit union is defined in Section 701.34 of the NCUA Rules and Regulations as one where a majority of its members either earn less than 80 percent of the average for all wage earners as established by the Bureau of Labor Statistics, or whose annual household income falls at or below 80 percent of the median household income for the nation. The term ''low income'' also includes members who are full-time or part-time students in a college, university, high school, or vocational school.

Mentor—An individual who provides guidance and assistance to newly chartered, small, or low-income credit unions. All new federal credit unions are encouraged to establish a mentor relationship with a trained, experienced credit union individual or an existing credit union.

Merger—Absorption by one credit union of all of the assets, liabilities and equity of another credit union. Mergers must be approved by the National Credit Union Administration and by the appropriate state regulator whenever a state credit union is involved.

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

Occupational common bond—Employment by the same entity or related entities.

Once a member, always a member—A provision of the Federal Credit Union Act which permits an individual to remain a member of the credit union until he or she chooses to withdraw or is expelled from the membership of the credit union. Under this provision, leaving a group that is named in the credit union's charter does not terminate an individual's membership in the credit union.

Overlap—The situation which results when a group is eligible for membership in more than one credit union.

Primary potential members—Members or employees who belong to an associational or occupational group, or persons who live, work, worship, or attend school within a community chartered credit union's field of membership.

Purchase and assumption—Purchase of all or part of the assets of and assumption of all or part of the liabilities or one credit union by another credit union. The purchased and assumed credit union must first be placed into involuntary liquidation.

Service area—The area that can reasonably be served 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, and loans are dispersed.

Single associational common bond credit union—A credit union whose field of membership includes members and employees of a recognized association.

Single common bond credit union—A credit union whose field of membership consists of one group which has a common bond of occupation or association.

Single occupational common bond credit union—A credit union whose field of membership consists of employees of the same entity or related entities.

Spin-off—The transfer of a portion of the field of membership, assets, liabilities, shares, and capital of one credit union to a new or existing credit union.

Subscribers—For a federal credit union, at least seven individuals who sign the charter application and pledge at least one share.

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.

Unsafe or unsound practice—Any action, or lack of action, which would result in an abnormal risk or loss to the credit union, its members, or the National Credit Union Share Insurance Fund.

Appendix B—Letter of Understanding and Agreement

To the Board of Directors and Other Officials _____ Federal Credit Union

Since the purposes of credit unions are to promote thrift and to make funds available for loans to credit union members for provident and productive purposes, and since newly chartered credit unions do not generally have a sufficient reserves to cover large losses on loans or meet unduly large liquidity requirements, Federal insurance coverage of member accounts under the National Credit Union Share Insurance Fund will be granted to the above named credit union subject to the conditions listed in this Letter of Understanding and Agreement and in the Organization Certificate and Application and Agreements for Insurance of Accounts. These terms are listed below and are subject to acceptance by authorized credit union officials.

1. The credit union will refrain from soliciting or accepting brokered fund deposits from any source without the prior written approval of the Regional Director.

2. The credit union will refrain from the marking of large loans, that is, loans in excess of 5 percent of unimpaired capital and surplus, to any one member or group of members without the prior written approval of the Regional Director.

3. The credit union will not establish or invest in a Credit Union Service Organization (CUSO) without the prior written approval of the Regional Director.

4. The credit union will not enter into any insurance programs whereby the credit union member finances the payment of insurance premiums through loans from the credit union.

5. Any special insurance plan/program, that is, insurance other than usual and normal surety bonding or casualty or liability or loan protection and life savings insurance coverage, which the credit union officials intend to undertake, will be submitted to the Regional Director of the National Credit Union Administration for written approval prior to the officials committing the credit union thereto.

6. The credit union will prepare and mail to the district examiner financial and statistical reports as required by the Federal Credit Union Act and Bylaws by the 20th of each month following that for which the report is prepared.

7. As the credit union's officials gain experience and the credit union achieves target levels of growth and profitability, the above terms and conditions may be renegotiated by the two parties.

We, the undersigned officials of the _____ Federal Credit Union, as authorized by the board of directors, acknowledge receipt of and agree to the attached Letter of Understanding and Agreement dated _____.

This Letter of Understanding and Agreement has been voluntarily entered into with the National Credit Union Administration. We agree to comply with all terms and conditions expressed in this Letter of Understanding and Agreement.

Should the NCUA Board determine that these terms and conditions have not been complied with or that the board of directors or other officials have not conducted the affairs of the credit union in a sound and prudent manner, the NCUA Board may terminate insurance coverage of the credit union. If actions by the officials, in violation of this Letter of Understanding and Agreement, cause the credit union to become insolvent, the officials assume such personal liability as may result from their actions.

The term of this Letter of Understanding and Agreement shall be for the period of at least 24 months from the date the credit union is insured. This Letter of Understanding and Agreement may, at the option of the Regional Director, be extended for an additional 24 months at the end of the initial term of this agreement.

Dated this _____ of _____ _____.

National Credit Union Administration Board on behalf of the National Credit Union Share Insurance Fund.

_____
Regional Director.

_____
Federal Credit Union
By:

_____
Chief Executive Officer

_____
Date

_____
Chief Financial Officer

_____
Date

_____
Secretary

_____
Date

Appendix C—NCUA Offices

Central Office

1775 Duke Street, Alexandria, VA 22314–3428, Commercial: 703–518–6300

Region I—Albany

9 Washington Square, Washington Avenue Extension, Albany, NY 12205–5512, Commercial: 518–862–7400, FAX: 518–862–7420

Connecticut
Massachusetts
New York
Vermont
Maine
New Hampshire
Rhode Island

Region II—Capital

1775 Duke Street, Suite 4206, Alexandria, VA 22314–3437, Commercial: 703–519–4600, FAX: 703–519–4620

Delaware
Maryland
Pennsylvania
District of Columbia
New Jersey
Virginia

Region III—Atlanta

7000 Central Parkway, Suite 1600, Atlanta, GA 30328–4598, Commercial: 678–443–3300, FAX: 678–443–3020

Alabama
Florida
Kentucky
Mississippi
Puerto Rico
Tennessee
Arkansas
Georgia
Louisiana
North Carolina
South Carolina
Virgin Islands

Region IV—Chicago

4225 Naperville Road, Suite 125, Lisle, IL 60532–3658, Commercial: 630–955–4100, FAX: 630–955–4120

Illinois
Michigan
Ohio
West Virginia
Indiana
Missouri
Wisconsin

Region V—Austin

4807 Spicewood Springs Road, Suite 5200, Austin, TX 78759–8490, Commercial: 512–482–4500, FAX: 512–482–4511

Arizona
Iowa
Minnesota
New Mexico
Oklahoma
Texas
Colorado
Kansas
Nebraska
North Dakota
South Dakota

Region VI—Pacific

2300 Clayton Road, Suite 1350, Concord, CA 94520–2407, Commercial: 925–363–6200, FAX: 925–363–6220

Alaska
Guam
Idaho
Nevada
Utah
Wyoming
California
Hawaii
Montana
Oregon
Washington

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APPENDIX D

NCUA FORMS

NCUA 4000 -- Conversion of State Charter to a Federal Charter -- FCU Investigation Report

NCUA 4001 -- FCU Investigation Report

NCUA 4008 -- Charter

NCUA 4009 -- Approval of Organization Certificate & Certification of Insurance

NCUA 4012 -- Report of Official & Agreement to Serve

NCUA 4015 -- Application for Field of Membership Amendment

NCUA 4015-EZ- Streamlined Application for Field of Membership Amendment

NCUA 4221 -- Notice of Meeting of Members

NCUA 4401 -- Application to Convert from a State Credit Union to an FCU

NCUA 4505 -- Affidavit

NCUA 4506 -- Ballot for Conversion Proposal

NCUA 9500 -- Application and Agreement for Insurance of Accounts

NCUA 9501 -- Certification of Resolutions

NCUA 9600 -- Information to be Provided in Support of the Application of a State Credit Union for Insurance of Accounts

Conversion of State Charter to Federal Charter

FEDERAL CREDIT UNION INVESTIGATION REPORT

(Note of Organizer)

This report must be filled in completely and submitted with the other completed forms listed in Chapter 4.

A. INFORMATION FOR CHARTER AND BYLAWS

1. Proposed Name _____ Federal Credit Union
   Second Choice of Name _____ Federal Credit Union

2. Contact Person _____ Bus. Tel. No./Area Code _____
   Res. Tel. No./Area Code _____

3. The credit union will maintain its office at _____

(City) (County) (State) (Zip)

4. Permanent mailing address of credit union _____

5. Define proposed field of membership (Attach a copy of current state charter field of membership) _____

6. The board will have (an odd number 5 to 15)__members: the credit committee (an odd number, 3 to 7)__members: the supervisory committee (3 to 5)__members. Each official must complete a Report of Official and Agreement to Serve (NCUA 4012) which is to be submitted with this investigation report.

B. CHARACTER AND FITNESS OF SUBSCRIBERS

(Please type or print)

7. List of the subscribers who have signed the organization certificate (7 not more than 10 persons). Names should be IDENTICAL to signatures on the organization certificate (NCUA 4008). Each subscriber listed below has subscribed to at least one share in accordance with Section 103 of the Federal Credit Union Act:

Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Year of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*
Name	*Address*	
Occupation		*Years of Membership*

ANY ADDITIONAL COMMENTS OR INFORMATION THAT IS DEEMED PERTINENT OR HELPFUL IN GIVING CONSIDERATION TO THIS APPLICATION SHOULD BE INCLUDED AS AN ATTACHMENT.

The undersigned certifies that to the best of his/her knowledge and belief the above information is true and correct.

I do (do not) recommend that a charter be granted to this group.

Signature _____ **, Organizer**

Organizer's Address _____

NCUA 4000

INSTRUCTIONS

A. INFORMATION FOR CHARTERS AND BYLAWS

The subscriber should select a name for the proposed credit union. It is the responsibility of the federal credit union organizers to ensure that the proposed federal credit union name does not constitute an infringement on the name of any corporation in its trade area. The last three words in the name must be "Federal Credit Union." Since the name selected should not duplicate exactly the name of an existing credit union, item 1 provides space for a second choice.

The territory of operations of a Federal credit union is described in the field of membership, item 5. The principle office of the credit union will usually be maintained at a location described in the field of membership.

The proposed field of membership should be defined so clearly that it leaves no room for any doubt as to whom the credit union is to serve or the area which it is to operate. Corporations and other organizations referred to in the definition of the field of membership should be designated by the exact names rather than by some local or popular contraction of these names. Any segment of a larger organization should be identified with the parent. The field of membership for each type of common bond and samples are discussed in detail in Chapter 2 of the *"Chartering and Field of Membership Manual."*

With the guidance of the organizer, the subscribers to the Organization Certificate decide on the number of directors and credit committee members. The board and credit committee must be composed of an odd number of members. The supervisory committee is appointed by the board of directors.

The subscriber should select a name for the proposed credit union. It is the responsibility of the federal credit union organizers to ensure that the proposed federal credit union name does not constitute an infringement on the name of any corporation in tis trade area. The last three workds in the name must be "Federal Credit Union." Since the name selected should not duplicate exactly the name of an existing credit union, item 1 provides space for a second choice.

B. CHARACTER AND FITNESS OF SUBSCRIBERS

The names and address of the subscribers should be recorded legibly and completely in item 7 of this report. It is from this information that the Administration prepares Section 3 of the charter. The names of the subscribers must be **IDENTICAL** to their signatures on the Organization Certificate.

C. SUBMITTAL OF CHARTER APPLICATION

In addition to this Investigation Report, the following should be submitted to the appropriate regional director of NCUA:

1. Organization Certificate, NCUA 4008-one notarized original. At least *seven, but no more than ten persons,* must sign the organization certificate. The person administering the oath must not be one of the subscribers. The oath on the organization certificate must be executed and show the notary's seal and date the commission expires as required by State law;
2. Report of Official and Agreement to Serve, NCUA 4012 - one original for each board member, credit committee member, and supervisory committee member;
3. Application and Agreements for Insurance of Accounts, NCUA 9500 - one original;
4. Business Plan - refer to Chapter 1 of the Chartering and Field of Membership Manual for a discussion of the components of an acceptable business plan.
5. Certificate of Resolution, NCUA 9501 - one original.

FEDERAL CREDIT UNION INVESTIGATION REPORT

(Note to Organizer) This report form must be filled in completely and submitted with the other completed forms listed on page 8 under "Submittal of Charter Application." Please refer to page 7 for instructions in completing this report.

A. INFORMATION FOR CHARTER AND BYLAWS

1. Proposed name _____ Federal Credit Union
   Second choice _____ Federal Credit Union

2. Contact Person _____ Business Tel. _____ Residence Tel. _____
   Address _____

3. The credit union will maintain its offices at _____
   (City, State, County, Zip Code)

3a. Proposed permanent mailing address of credit union _____

4. Define proposed field of membership _____

5. The board will have (an odd number, 5 to 15) _____ members; the credit committee will have (an odd number, 3 to 7)_____ members; the supervisory committee will have (3 to 5) _____ members. Each official must complete a Report of Official and Agreement to Serve (NCUA 4012) which is to be submitted with this investigation report.

B. ECONOMIC ADVISABILITY OF ORGANIZING PROPOSED CREDIT UNION

(Attach a separate sheet if space available is not adequate.)

GENERAL INFORMATION

1. Potential membership _____
   NOTE: Number of employees for occupational, active members for associational (or families for religious groups), or population per most recent census for community-type fields of membership.

2. Potential interest (survey results).
   NOTE: Sample must consist of a minimum of 250 potential members. Copy of survey form(s) utilized should be attached.
   Number of people surveyed _____
   Number of people responding to survey _____
   Number of people pledging an initial deposit _____
   Total dollars pledged $ _____
   Number pledging systematic savings _____
   Total dollars pledged (per month) $ _____

3. Number of persons attending the charter-organization meeting _____

4. Are officials of the sponsor favorable toward the proposal to organize a credit union? _____
   NOTE: Attach letters of support from company officials (occupational-type); association officials (associational-type); business, civic, or other community organizations (community-type).

For paperwork Reduction Act Notice, see page 7.

5. What facilities and assistance, if any, will the sponsor provide?

_____ Office Space (Describe)
_____ Office Supplies
_____ Payroll deductions
_____ Funding for start-up costs, if so $ _____
_____ Other (Describe)

6. Is credit union service now available to any members of the group? _____
If so, explain the nature and approximate extent of overlapping of such service with the field of membership proposed in this application, i.e., employees who are labor union members eligible for membership in another credit union on an associational basis; labor union members who are eligible for credit union membership on an occupational basis; community residents who are eligible for credit union membership in occupational or associational credit unions located within the proposed boundaries.

_____
_____
_____
_____
_____

7. What potential difficulties do you detect in the elected officials carrying out their management, responsibilities or in the FCU achieving its stated objectives? _____
_____
_____
_____

NOTE TO ORGANIZER: The officials' projected goals for share growth must be recorded in the business plan.

8. What provisions have been made to overcome potential difficulties? _____
_____
_____
_____

Dates of planned contacts by organizer to determine progress and to assist the group:

_____	_____	_____
(Date)	(Date)	(Date)

SPECIFIC INFORMATION - OCCUPATIONAL CHARTER APPLICANTS

9. How long has the sponsor company been in existence? _____

10. What was the highest number of employees during the past three years? _____; Lowest number during the past three years? _____ If a large variance, please explain, _____

11. Are there any contemplated changes in the corporate structure of the company? _____ If yes, explain _____

12. Have there been any significant changes in the corporate structure in the past three years? _____ If yes, please explain. _____

13. Are there any negotiations now in progress between management and labor that could lead to work stoppages? _____ If yes, please explain _____

14. If the credit union cannot operate on the employer's property, explain how the credit union will be able to transact business effectively with the members. _____

15. If the employees to be served by the credit union work in more than one location or city, identify each location with the corresponding number of employees working at each. _____

16. Are there other employees of the company who are not being included in the proposed field of membership? _____ if so, give the number and location of the other employees and explain why a credit union is being proposed for this group only, _____

SPECIFIC INFORMATION - ASSOCIATIONAL CHARTER APPLICANTS

17. State the purpose and goals of the organization sponsoring this charter. _____

18. List the types of activities and their frequency, which the organization sponsors that provide contact among the members and from which common loyalties, mutual benefits, and mutual interests are developed. _____

19. In what year was the organization established? _____ Is it incorporated? _____. Where is the headquarters located? _____

20. Give statistics as to trends in membership during the last five years. _____

21. What is the frequency of members' meetings? _____ Average attendance _____ Dues required _____

22. State the geographic territory where members reside. _____

23. Obtain a copy of the current bylaws of the association, the constitution or articles of incorporation, and recent financial statements, i.e. balance sheet, and income and expense statement. Submit these documents with this application.

24. If the bylaws, constitution or articles of incorporation provide for more than one type of membership and if all classes of membership are to be included in the credit union's field of membership, provide justification for the inclusion of other than "regular" members. _____

25. For labor union group only, complete a through c:

a. State the number of labor union members at each place of employment. _____

b. State the total number of employees, whether union members or not, working at each place of employment. Give a breakdown of union versus nonunion employees. _____

c. What has been done toward organizing a credit union on an employee basis? Discuss fully. _____

SPECIFIC INFORMATION - COMMUNITY CHARTER APPLICANTS

26. Community charters must be based on a well-defined local community, neighborhood, or rural district where individuals have common interests or interact. Describe how the proposed community area meets these requirements _____

27. Which business, civic, or other community organizations support the proposed credit union? List and show the support pledged including the names and titles of officials who were contacted. Obtain and attach letters of support from these individuals.

28. Describe the proposed area's specific geographic boundaries. Geographic boundaries may include a city, township, county (or its political equivalent), or clearly definable neighborhood. _____

29. Provide a map which clearly outlines the credit union's proposed community boundaries.

30. Are there currently any state or federal credit unions operating within the proposed community boundaries? _____ If so, provide a list of the credit union's names and mailing addresses.

C. CHARACTER AND FITNESS OF SUBSCRIBERS

1. List of subscribers who have signed the organization certificate (7 not more than 10 persons). Names should be IDENTICAL to signature on the organization certificate (NCUA 4008). Each subscriber listed below has subscribed to at least one share in accordance with Section 103 of the Federal Credit Union Act:.

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

Name _____
Address _____
Occupation _____
Years of Residence _____

2. Are all of the subscribers within the field of membership? _____. Do they appear to be fairly representative of the group described in the definition of the field of membership? _____. If not, explain _____

3. Does your investigation indicate that the subscribers are persons of good character? _____. If not, explain _____

4. From your investigation, is it your judgement that the directors and committee members are persons of good character, and that they have the ability and determination to operate a credit union satisfactorily? _____ If not, explain _____

5. Does it appear that there are any factions within the group which may render smooth and efficient credit union operations difficult? _____. If so, explain _____

6. Is there any indication that the proposed credit union would be used for selfish gain by any person or group of persons within the group to be served? _____

7. Is an application for a State Charter now pending? _____

8. Has the group ever had a credit union? _____ If so, when did it liquidate or merge? _____

ANY ADDITIONAL COMMENTS OR INFORMATION THAT IS DEEMED PERTINENT OR HELPFUL IN GIVING CONSIDERATION TO THIS APPLICATION SHOULD BE INCLUDED AS AN ATTACHMENT.

The undersigned certifies that to the best of their knowledge and belief the above information is true and correct.

I do (do not) recommend that a charter be granted to this group.
Signature _____, Organizer
Organizer's Address _____
_____
Telephone No. _____ Date _____

INSTRUCTIONS

A. INFORMATION FOR CHARTER AND BYLAWS

The subscriber should select a name for the proposed credit union. It is the responsibility of the federal credit union organizers to ensure that the proposed federal credit union name does not constitute an infringement on the name of any corporation in its trade area. The last three words in the name must be "Federal Credit Union." Since the name selected should not duplicate exactly the name of an existing credit union, Item 1 provides space for a second choice.

The territory of operations of a Federal Credit Union is described in the field of membership, item 4. The principle office of the credit union will usually be maintained at a location described in the field of membership.

The proposed field of membership should be defined so clearly that it leaves no room for any doubt as to whom the credit union is to serve or the area which it is to operate. Corporations and other organizations referred to in the definition of the field of membership should be designated by the exact names rather than by some local or popular contraction of these names. Any segment of a larger organization should be identified with the parent. The field of membership for each type of common bond and samples are discussed in detail in Chapter 2 of the *"Chartering and Field of Membership Manual."*

With the guidance of the organizer, the subscribers to the Organization Certificate decide on the number of directors and credit committee members. The board and credit committee must be composed of an odd number of members. The supervisory committee is appointed by the board of directors.

B. ECONOMIC ADVISABILITY OF ORGANIZING PROPOSED CREDIT UNION

This section of the report contains information on:

1. The size and compactness of the group;
2. The nature of the common bond;
3. The attitude of the:
   a. (if occupational based field of membership) management of the sponsor organization;
   b. (if associational based field of membership) officers of the sponsor association;
   c. (if community based field of membership) community leaders and/or *officers* of prominent associations or organizations in the area to be served;
4. The facilities available for credit union operations;
5. The availability of existing credit union service, and
6. Other facts to support a potential for successful operation.

This section of the report should contain information on the management, association or civic leaders contacted that intend to support or utilize the credit union. In those cases where certain persons in the area are opposed to the credit union, the organizer should point out the factors which indicate that the group will be able to overcome this handicap.

Clerical assistance at least during the first few months of operation, payroll deductions, and office space are desirable aids in the development of a credit union. Plans for overcoming any obstacles to effective operation such as lack of office space or scattered field of membership should be described briefly. If more space is needed than that provided, a separate sheet may be used.

C. CHARACTER AND FITNESS OF SUBSCRIBERS

The names and addresses of the subscribers should be recorded legibly and completely in item C. 1. of this report. It is from this information that the Administration prepares Section 3 of the charter. The names of the subscribers must be **IDENTICAL** to their signatures on the Organization Certificate.

D. SUBMITTAL OF CHARTER APPLICATION

In addition to this Investigation Report, the following should be submitted to the appropriate regional director of NCUA:

1. Organization Certificate, NCUA 4008-one notarized original. At least *seven, but no more than ten persons,* must sign the organization certificate. The person administering the oath must not be one of the subscribers. The oath on the organization certificate must be executed and show the notary's seal and date the commission expires as required by State law;
2. Report of Official and Agreement to Serve, NCUA 4012 - one original for each board member, credit committee member, and supervisory committee member;
3. Application and Agreements for Insurance of Accounts, NCUA 9500 - one original;
4. Business Plan - refer to Chapter 1 of the *"Chartering and Field of Membership Manual"* for a discussion of the components of an acceptable business plan.
5. Certificate of Resolution, NCUA 9501 - one original.

NATIONAL CREDIT UNION ADMINISTRATION

_____
FEDERAL CREDIT UNION

(A corporation chartered under the laws of the United States)

CHARTER NO. _____

NCUA 4008
Page 1

ORGANIZATION CERTIFICATE

_____ **FEDERAL CREDIT UNION**

Charter No. _____

TO NATIONAL CREDIT UNION ADMINISTRATION:

We, the undersigned, do hereby associate ourselves as a Federal Credit Union for the purposes indicated in and in accordance with the provisions of the Federal Credit Union Act, (12 U.S.C. 1751 et seq.). We hereby request approval of this organization certificate; we hereby apply for insurance of member accounts; we agree to comply with the requirements of said Act, with the terms of this organization certificate and with all laws, rules, and regulations now or hereafter applicable to Federal Credit Unions.

(1) The name of this credit union shall be _____

_____ **Federal Credit Union.**

(2) This credit union will maintain its office and will operate in the territory described in the field of membership.

(3) The names and addresses of the subscribers to this certificate and the number of shares subscribed by each are as follows:

NAME	ADDRESS	SHARES

(4) The par value of the shares of this credit union will be stated in the bylaws.

(5) The field of membership shall be limited to those having the following common bond:

(6) The term of this credit union's existence shall be perpetual: Provided, however, that upon the finding that this credit union is bankrupt or insolvent or has violated any provision of this organization certificate, of the bylaws, of the Federal Credit Union Act including any amendments thereto or thereof, or of any regulations issued thereunder, this organization certificate may be suspended or revoked under the provisions of Section 120 (b) of the Federal Credit Union Act.

(7) This certificate is made to enable the undersigned to avail themselves of the advantages of said Act.

(8) The management of this credit union, the conduct of its affairs, and the powers, duties, and privileges of its directors, officers, committees and membership shall be set forth in the approved bylaws and any approved amendments thereto or thereof.

IN WITNESS WHEREOF we[1] have here unto subscribed our names this

_____ _____ _____
(day) (month) (year)

_____ _____

_____ _____

_____ _____

_____

_____

Subscribed before me, an officer competent to

administer oaths, at _____
CITY/STATE

this _____ _____ _____
(day) (month)

_____
(year)

Signed _____

Title _____
(Notary public or other competent officer)

[1]At least seven signers none of whom should administer the oath

APPROVAL OF ORGANIZATION CERTIFICATE AND CERTIFICATION OF INSURANCE

Pursuant to the provisions of the Federal Credit Union Act (12 U.S.C. 1751 et. seq.), the foregoing organization certificate and insurance of member accounts of _____ _____ Federal Credit Union are approved this _____ _____ (day) _____ (month) _____ (year)

_____

CHAIRMAN

NATIONAL CREDIT UNION ADMINISTRATION

NCUA 4009

REPORT OF OFFICIAL AND AGREEMENT TO SERVE

TO: **NATIONAL CREDIT UNION ADMINISTRATION**
(Type or Print)

Proposed _____ Federal Credit Union

Name ☐Mr. ☐Ms. ☐Mrs. ☐Miss _____ Title of Newly Elected/Appointed Credit Union Position _____
Last First Middle

Maiden Name (If Different From Above) _____

Address (Res.) _____
Street City State Zip Code

Phone + Area Code _____
(Residence) (Business)

Place of Birth _____ Date of Birth _____
City/State

Employer _____ Social Security Number _____

Type of Business _____

Number of years with present employer _____ Your position title _____

Education background (circle highest grade completed)

1 2 3 4 5 6 7 8 9 10 11 12 (Grade and High School)

1 2 3 4 ( ) (College) MAJOR FIELD OF STUDY _____

Other training or experience _____

Are you willing to accept the position of trust for which you have been selected and to remain in office until such time as a qualified successor is found? . . . . . ☐Yes ☐No

Have you been informed as to the general duties and responsibilities of an official of the proposed Federal Credit Union and are you willing to devote the time necessary to familiarize yourself with and to perform your duties? . . . . . ☐Yes ☐No

Estimated number of hours per month you will be able to donate as a volunteer _____

IF THE ANSWER IS **YES** TO THE FOLLOWING QUESTION, PLEASE PROVIDE INFORMATION AS INSTRUCTED ON REVERSE SIDE OF THIS FORM:

Have you ever been convicted of any CRIMINAL OFFENSE involving dishonestly or a breach of trust? . . . . . ☐Yes ☐No

To facilitate the process of obtaining a credit and background check, please provide the following:

1. Any other names which you have used _____, and,
2. Previous address, (if your address changed over the past 2 years) _____
3. Name of Spouse _____

READ THE FOLLOWING CAREFULLY BEFORE SIGNING

CERTIFICATION AND AGREEMENT TO SERVE

I certify that the information provided on this form is true and correct. Further, 1, the undersigned, having been duly designated to occupy the position(s) indicated above, do hereby agree to serve in the above-stated office(s) of this proposed credit union until the first annual meeting held in accordance with the Federal Credit Union Act and the bylaws of this credit union and until the election of my successor(s). I further pledge to carry out the duties and responsibilities commensurate and said office(s) as promulgated by the Federal Credit Union Act and the bylaws of this credit union. I have read the Privacy Act Notice on the reverse side if this form.

_____
Date Signature Witness

PRIVACY ACT NOTICE

The Privacy Act of 1974 (Public Law 93-579) requires that you be advised as to the legal authority, purpose and uses of the information solicited by this form. Pursuant to Sections 104 and 205(d) of the Federal Credit Union Act, the information in this form is requested for the purpose of completing the investigation required for a new Federal credit union. The information in this form will be primarily used in considering the soundness of the management for the proposed Federal credit union. However, this form may be disclosed to any of the following sources: a congressional office in response to your inquiry to that office; an appropriate Federal, state or local authority in the investigation or enforcement of a statute or regulation; or employees of a Federal agency for audit purposes. Failure to complete this form or omission of any item of information, except for disclosure of your social security number, may result in a delay in the process for chartering the proposed Federal credit union. In accordance with Section 792.36 of NCUA's regulations, you are not required to furnish your social security number on this form. Your social security number, if voluntarily provided, will be used to more easily verify the information required by this form. No penalty will result to you as a management official or to the chartering of the proposed Federal credit union if you do not provide your social security number.

Further information needed if answer to CRIMINAL OFFENSE question on reverse side of form was YES:

CRIMINAL OFFENSE:

Nature of offense _____

_____

Date of occurrence _____ **Date of conviction** _____

Sentence conferred _____

_____

(Attach a separate sheet if space provided if not adequate)

CRIMINAL OFFENSE GUIDELINES

The Federal Credit Union Act, Subchapter II, section 205(d), requires that, "Except with the written consent of the Administrator, no person shall serve as director, officer, committee member, or employee of an insured credit union who has been convicted or who is hereafter convicted, of any criminal offense involving dishonesty or breach of trust." To assist the Administrator in making a determination of the fitness of a person who is selected to serve and who the organizer believes is qualified to serve as an official, the specific information above will need to be furnished.

If the Board believes that, in view of the facts presented and the date of the offense, they can give their consent to the appointment they will so advise that person in writing. If on the other hand, the Board believes after careful consideration that they cannot in good conscience give their written consent to the appointment they will contact the organizer and ask that another person be selected for the position. The person selected will have to complete a Report of Official and Agreement to Serve.

An indication of whether the bonding company would agree to provide coverage should be included if the person is to serve as treasurer. Bonding company agrees to provide coverage ☐ Yes ☐ No

APPLICATION FOR FIELD OF MEMBERSHIP AMENDMENT
NCUA FORM 4015-EZ

USE ONLY FOR EXPANSIONS COVERING GROUPS OF 200 PERSONS OR LESS

Attach a separate application for each group included in your request for expansion. The application must be complete or it will be returned unprocessed.

1. Name and address of credit union: _____
_____
_____

2. Name and address of group: _____
_____
_____

(If the group is an association, include a copy of the association's Charter/Bylaws or other equivalent organizational documentation.)

3. Provide the proposed field of membership wording: _____
_____
_____

4. How many primary potential members (excluding immediate family and household members) are in the group: _____

5. Attach a letter, on letterhead stationery if possible, from the group requesting credit union service. This letter must indicate:

- ☐ how the group shares the occupational or associational common bond **(for single common bond additions only)**;
- ☐ that the group wants to be added to the federal credit union's field of membership;
- ☐ the number of persons to be added and the group's location(s); and
- ☐ the group's proximity to the credit union's nearest service facility **(for multiple common bond additions only)**.

Name and title of credit union board-authorized representative (e.g., President/CEO):

_____	_____	_____
(Typed/Printed Name)	(Signature)	(Date)

APPLICATION FOR FIELD OF MEMBERSHIP AMENDMENT NCUA FORM 4015

USE ONLY FOR EXPANSIONS COVERING GROUPS OF MORE THAN 200 PERSONS

For expansions covering groups of 200 or less persons -- use the short form application, NCUA 4015-EZ.

Attach a separate application for each group included in your request for expansion. The application must be complete or it will be returned unprocessed.

Attach a separate application for each group included in your request for expansion.

1. Name and address of credit union:

_____

_____

_____

2. Name and address of the group:

_____

_____

_____

3. Provide the proposed field of membership wording. Use the example wording found in NCUA's *Chartering and Field of Membership Manual,* Chapter 2:
   - ☐ Section II.A for single occupational common bond groups;
   - ☐ Section III.A for single associational common bond groups; or
   - ☐ Section IV.A for multiple common bond fields of membership.

_____

_____

_____

4. How many primary potential members (excluding immediate family and household members) are in the group: _____

5. (a) For multiple common bond expansions, what is the distance between the group's location and your credit union's nearest service facility[1] to which the group has access (Reference Chapter 2, Section IV.A.1):

_____

_____

[1] **A service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted, and loans are disbursed.**

(b) What is the address of this service facility:

_____

_____

_____

(c) Describe the service area[2] primarily served by the above service facility:

_____

_____

_____

_____

6. Is the group in the field of membership of <u>any</u> other credit union? Yes___ No___
If yes, and the overlapped credit union is not a community credit union or a non-federally insured credit union, please address the following:

☐ Provide the name and location of the other servicing credit union:

_____

_____

_____

☐ Include a letter from the overlapped credit union indicating whether it concurs or objects to the overlap. If the overlapped credit union objects or fails to respond, document attempts to resolve the issue:

_____

_____

_____

_____

☐ Explain how the expansion's beneficial effect in meeting the convenience and needs of the members of the group clearly outweighs any adverse effect on the overlapped credit union:

_____

_____

_____

_____

[2] **A federal credit union's 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 by the service facility.**

7. Attach a letter, on letterhead stationery if possible, from the group requesting credit union service. This letter must indicate:

   - ☐ how the group shares the occupational or associational common bond **(for single common bond additions only)**;
   - ☐ that the group wants to be added to the federal credit union's field of membership;
   - ☐ whether the group presently has other credit union service available;
   - ☐ the number of persons currently included within the group to be added and the group's location(s);
   - ☐ the group's proximity to the credit union's nearest service facility **(for multiple common bond additions only)**; and
   - ☐ why the formation of a separate credit union for the group is not practical or consistent with safety and soundness standards **(for multiple common bond additions only)**. *The formation of a separate credit union may not be practical if the group lacks sufficient volunteers or resources to support the operation of a credit union or does not meet the economic advisability criteria outlined in Chapter 1 of NCUA's Chartering and Field of Membership Manual.*

8. Other comments:

_____

_____

_____

_____

_____

_____

Name and title of credit union board-authorized representative (e.g., President/CEO):

_____	_____	_____
(Typed/Printed Name)	(Signature)	(Date)

NOTICE OF MEETING OF THE MEMBERS

_____ FEDERAL CREDIT UNION

_____ _____
(City) (State)

THIS PROPOSITION WILL BE DECIDED BY A MAJORITY OF THE MEMBERS WHO VOTE.

Notice is hereby given that a meeting of the members of _____ Federal Credit Union, _____ has been called and will be held at _____ on _____, _____ (year), at _____ o'clock, ___ .M. for the purpose of considering and voting upon the following resolution:

"RESOLVED, That the _____ Federal Credit Union be converted to a credit union chartered under the laws of the State of _____ and that its operation under Federal charter be discontinued.

RESOLVED FURTHER, That the board of directors and the officers of this credit union and are hereby authorized and directed to do all things necessary to effect and to complete the conversion of this credit union from a Federal to State-chartered credit union."

The board of directors of this credit union has given careful consideration to the advantages and the disadvantages of the proposed conversion and believes it to be in the best interest of the members for the following reasons: _____

The proposed conversion would result in the following disadvantages or adverse changes in services and benefits to the members of the credit union: _____

The proposed conversion would result in the following costs of conversion (i.e. changing the credit unions name, examination and operating fees, attorney and consulting fees, tax liability, etc): _____

NCUA 4221

The board of directors recommends that the members approve the proposal to convert to a State charter

The members' accounts will ☐ will not ☐ continue to be insured by the National Credit Union Share Insurance Fund.

Attached is your ballot. You are urged to bring your ballot to the meeting and to cast your vote after hearing the discussion of the proposal. If you cannot attend the meeting, you are urged to mark your vote, date and sign your ballot, have it postmarked no later than the date and the time announced for the meeting of the members, and mail it to the following address: _____

_____

_____

_____

BY ORDER OF THE BOARD OF DIRECTORS

_____

TITLE:
(CHIEF EXECUTIVE OFFICER)

_____

TITLE:
(CHIEF RECORDING OFFICER)

Issued _____
(Date)

NCUA 4221

APPLICATION TO CONVERT FROM A STATE TO A FEDERAL CREDIT UNION

The _____ Credit Union of _____ (city), _____ (State), incorporated under the laws of the State of _____ on _____ ,____ (year), by decision of its board of directors, hereby makes application to the National Credit Union Administration to convert to a Federal credit union.

1. Field of membership of State-chartered credit union. (Use exact wording of charter, articles of incorporation or bylaws, as amended to date.)

_____

_____

_____

_____

_____

2. Is proposed Federal charter to cover same field of membership? Yes ☐ No ☐ If answer is "No," explain fully:

_____

_____

_____

_____

_____

3. Standard financial and statistical reports as of_____, ____ (year), or comparable forms of reports, certified correct by the treasurer and verified by the affidavit of the president or vice-president, are attached.

4. A schedule of delinquent loans classified 2 to 6 months, 6 to 12 months, and 12 months and over delinquent is attached. (As a minimum, schedule should include for each delinquent loan: loan date, last payment date, unpaid balance, security, and comment on collectibility.)

5. The following policies on loans to members are currently in effect in this credit union:

a. Interest rates on loans: _____

_____

b. Charges incident to making loans which are passed on to borrowers: _____

_____

c. Maturity limits: _____

_____

_____

d. Unsecured loan limit: _____

_____

e. Secured loan limit: _____

_____

f. Types of security accepted: _____

_____

g. Requirements of amortization (Repayment requirements): _____

_____

6. Attached is a list of unsecured loans in excess of the amounts stipulated in the Act. (For each loan show account number, original amount, terms, and unpaid balance.)

7. Attached is a list of loans with maturities in excess of periods stipulated in the Act and the NCUA Rules and Regulations. (For each loan show account number, original amount, terms, unpaid balance, and security.)

NCUA 4401

8. Types of accounts which members are required or are permitted to maintain: Share ☐ Deposit ☐ Other ☐ (describe): _____

9. Describe any real estate owned by credit union, including a list of its current market value: _____

10. Describe and list any investments which are outside of the investment powers of Federal credit unions (Refer to Section 107(7), Federal Credit Union Act): _____

11. Names and locations of any depository institutions in which the credit union deposits its funds but which are beyond the purview of deposit powers authorized by Section 107(8) of the Federal Credit Union Act.

12. Describe any services rendered to or on behalf of members or of the public, other than accepting and maintaining accounts of members and making loans to members: _____

13. Describe what you propose to do about any policies, procedures, assets or liabilities which do not comply with the Federal Credit Union Act: _____

14. Give specific reasons as to why you desire to convert to a Federal credit union: _____

We hereby authorize the National Credit Union Administration to examine our books and our records and agree to pay an examination fee in accordance with Section 701.6 of the National Credit Union Administration Rules and Regulations.

We, the undersigned _____ Chief Executive Officer and _____ Chief Financial Officer of the _____ Credit Union of _____, State of _____ certify: That we are the duly elected Chief Executive Officer and the Chief Financial Officer, respectfully, of said credit union; that the statements made in this Application to Convert from a State to a Federal Credit Union and the schedules attached hereto are true, complete, and correct to the best of our knowledge and belief and are made in good faith.

_____
TITLE:
(CHIEF FINANCIAL OFFICER)

_____
TITLE:
(CHIEF RECORDING OFFICER)

NCUA 4401

AFFIDAVIT
PROOF OF RESULTS OF MEMBERSHIP VOTE PROPOSED CONVERSION

We, the undersigned _____ president/vice president and _____ secretary of the _____ Federal Credit Union, hereby swear or affirm as follows:

1. That the conversion proposal as set forth in the attached Notice of Meeting of the Members was fully explained to the members present at said meeting of members.

2. That on the date of the said meeting of members there were _____ members of this credit union qualified to vote; _____ members were present at said meeting; of those members present, _____ members voted in favor of the conversion and _____ members _____ voted against the conversion; of those members not present at the meeting but who filed ballots, _____ members voted in favor of the conversion and _____ members voted against the conversion; and that, without duplication of the votes of any member, a total of _____ members voted in favor of the conversion and _____ members voted against the conversion.

3. That the action of the members of this credit union at said meeting is fully and completely recorded in the minutes of said meeting and all ballots cast by the members on the question of conversion, either at the meeting or by delivery to the credit union, are on file with the secretary of this credit union.

_____
TITLE:
(CHIEF EXECUTIVE OFFICER)

_____
TITLE:
(CHIEF RECORDING OFFICER)

_____
Federal Credit Union

Subscribed before me, an officer competent to administer oaths, at _____

_____ ,this _____ _____ _____ _____
(day) (month) (year)

Signed _____

(SEAL)

Title _____
(Notary Public or other competent officer)

My Commission Expires _____ , _____
(year)

NCUA 4505

BALLOT FOR CONVERSION PROPOSAL

I have read the notice concerning the meeting of the members of the _____ Federal Credit Union called for _____, _____, to consider and to vote upon the following proposition:
(year)

"RESOLVED, That the _____ Federal Credit Union be converted to a credit union chartered under the laws of the State of _____, and operation under Federal Charter Number _____ be discontinued.

RESOLVED FURTHER, That the board of directors and the officers of this credit union and are hereby authorized and directed to do all things necessary to effect and to complete the conversion of this credit union from a Federal to State-chartered credit union."

I hereby cast my vote on the proposition: (Place an X in the square opposite the appropriate statement.)

I vote for the conversion ☐

I vote against the conversion ☐

_____ (Account Number)

_____ (Signature of Member)

Date _____

NCUA 4506

APPLICATION AND AGREEMENTS FOR INSURANCE OF ACCOUNTS

Date

TO: The National Credit Union Administration Board (Board)

The proposed _____ Federal Credit Union

_____
(Mailing Address)

_____
(City) (State) (Zip Code)

applies for insurance of its accounts as provided in Title II of the Federal Credit Union Act, and in consideration of the granting of insurance, hereby agrees:

1. To pay the reasonable cost of such examinations as the Board may deem necessary in connection with determining the eligibility of the application for insurance.

2. To permit and pay the reasonable cost of such examinations as in the judgement of the Board may from time to time be necessary for the protection of the fund and other insured credit unions.

3. To permit the Board to have access to any information or report with respect to any examination made by or for any public regulatory authority and furnish such additional information with respect thereto as the Board may require.

4. To provide protection and idemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates.

5. To maintain such regular reserves as may be required by Section 116 of the Federal Credit Union Act.

6. To maintain such special reserves as the Board, by regulation or in special cases, may require for protecting the interest of members.

7. Not to issue or have outstanding any account or security the form of which, by regulation or in special cases, has not been approved by the Board.

8. To pay and maintain the capitalization deposit required by Title II of the Federal Credit Union Act.

9. To pay the premium charges for insurance imposed by Title II of the Federal Credit Union Act.

10. To comply with the requirements of Title II of the Federal Credit Union Act and of regulations prescribed by the Board pursuant thereto.

11. To permit the Board to have access to all records and information concerning the affairs of the credit union and to furnish such information pertinent thereto that the Board may require.

12. To comply with Title 18 of the United States Code and other pertinent Federal statutes as they may exist or may be hereafter promulgated or amended.

We, the undersigned, certify to the correctness of the information submitted. In support of this application the undersigned submit the Schedules described below:

Schedule No. Title

We, the undersigned, further certify that to the best of our knowledge and belief no proposed officer, committee member, or employee of this credit union has been convicted of any criminal offense involving dishonesty or a breach of trust, except as noted in attachments to this application. We further agree to notify the Board if any proposed or future officer commits a criminal offense.

_____ _____
Chief Executive Officer Chief Financial Officer

Note: A willfully false certification is a criminal offense. U.S. Code, Title 18. Sec. 1001.

NCUA 9500

CERTIFICATION OF RESOLUTIONS

_____ FEDERAL CREDIT UNION (PROPOSED)

We certify that we are the duly elected and qualified chief executive officer and recording officer of the above-named proposed Federal credit union and that at the charter-organization meeting the board of directors passed the following resolution and recorded it in its minutes:

> "Be it resolved that this credit union apply to the National Credit Union Administration Board for insurance of its accounts as provided in Title II of the Federal Credit Union Act.
>
> Be it further resolved that the president and treasurer be authorized and directed to execute the Application and Agreements for Insurance of Accounts as prescribed by the Board and any other papers and documents required in connection therewith; to pay all expenses and do all other things necessary or proper to secure and continue in force such insurance."

_____

Chief Executive Officer

_____

Recording Officer, Board of Directors

NCUA 9501

INFORMATION TO BE PROVIDED IN SUPPORT OF THE APPLICATION OF A STATE CHARTERED CREDIT UNION FOR INSURANCE OF ACCOUNTS

_____ Credit Union

1. Show below the location of the credit union's books and records.

_____
(Street Address)

_____
(City) (State) (Zip) (Telephone)

2. Show the date (month, day, year) in which the credit union was chartered_____ ____ (year)
3. Attach a copy of the credit union's field of membership as shown in the charter, articles of incorporation and/or bylaws, as amended to date. Please identify it as the first schedule in the consecutive number sequence as discussed in the instructions. Schedule No. _____
4. Potential membership (total number of persons who could be served including present members_____
5. Describe type activity sponsor organization is engaged in. (See instructions pertaining to item No. 5.)

_____

_____

6. Does the credit union operate under standard bylaws provided by the state supervisory authority? Yes ☐ (Stop) No ☐ (Complete a.)
   a. Attach a copy of the current official bylaws under which the credit union operated. Schedule No._____
7. Is the credit union under any administrative restraints by the State Supervisory Authority? Yes ☐ (Complete a.) No ☐ (Stop)
   a. Explain fully on an attached schedule. Schedule No._____
8. Attach a copy of the latest State supervisory authority examination. Copies of any correspondence from the accountant's report if made in lieu of a State supervisory authority examination. Copies of any correspondence from the State supervisory authority which accompanied the examination report should also be included.
9. Attach copies of the Balance Sheet and of the Statement of Income and Expense (or Financial and Statistical Report) for the month preceding the date of this application and for the same month of the preceding year. Schedule Nos. _____ .(Identify current year statement with (a) after schedule no. and previous Year with (b).)
10. Reserves
    a. Show below the requirements of the State law and/or your bylaws for transfer of earnings to reserves (either monthly or at the end of each accounting period).

11. Delinquent Loans and Charged-off Loans
    a. Attach a copy of the delinquent loan list as of the month-end preceding the date of this application. See instructions pertaining to Item No. 11 a. on page 7. Schedule No._____

b. List below the requested information on delinquent loans for the latest four calendar quarters preceding the date of the application (March 31, June 30, September 30 and December 31). Also show total share and loan balances for all members for all members for the same period.

(a) *Other Delinquent Categories	(b) Delinquent Categories	Date _____	Date _____	Date _____	Date _____
	2 mos. to less than 6 mos.	$	$	$	$
	6 mos. to less than 12 mos.	$	$	$	$
	12 mos. and over	$	$	$	$
	Totals				
	Share Balances	$	$	$	$
	Loan Balances	$	$	$	$

*See instructions pertaining to Item No. 11 b.

c. List below the requested information on loans charged off during the last three years and the current year. List total of all reserves both revocable and irrevocable for the same period as (balance at year-end and or current period).

	Year_____	Year_____	Year_____	Current Yr. to Date	*Totals Since Organization
Total Charged Off					
Total Recovered					
Net Charged Off					
Total of all Reserves					

*this information is available

12. Does the credit union have any unrecorded or contingent liabilities (Including pending law suits or civil actions)? Yes ☐ (Complete a.) No ☐ (Stop)

a. List on a schedule the complete description of such liabilities, including amounts, status of the items, and a description of the circumstances creating the liabilities or contingent liabilities. Schedule No._____

13. Do any asset accounts (other than loans to members, investments, and real estate) have actual values less than the book values shown on the Balance Sheet? Yes ☐ (Complete a.) No ☐ (Stop)

a. List on a separate schedule a description of such assets, showing at least the following information; account number, description of item, book value and actual value. Schedule No._____

14. List below or on an attached schedule any investments or real estate as discussed in the instructions pertaining to Item No. 14 Schedule No. _____ . Attach a copy of the credit union's current investment policies. Investments/Loans to Credit Union Service Organization (CUSO) should be listed separately on page 6.

Description of Item	Current Market Value	Current Book Value
	$	$
	$	$
	$	$

15. Individual Share and Loan Ledgers:
   a. Were the totals of the trial balance tapes of the individual share and loan ledgers in agreement with the balances of the respective general ledger control accounts as of the month-end preceding the date of this application?

   b. What are the differences as of the month and preceding the date of this application?

	Shares	Loans
Balances in General Ledger	$ _____	$ _____
Totals of the trial balance of the individual ledgers	$ _____	$ _____
Differences	$ _____	$ _____

16. Supervisory Committee:
   a. What is the effective date of the last complete comprehensive annual audit performed by the supervisory committee? Effective Date
      (1) If the effective date of the annual audit is not within the last 18 months what is the supervisory committee's target date for completion of a comprehensive audit? Date _____

   b. Show the effective date of the supervisory committee's last controlled verification of all members' accounts: Effective Date _____
      (1) If all members' accounts have not been verified under controlled conditions during the last two years what is the supervisory committee's target date for completion of the verification program? Date _____

   c. If it is necessary to complete either 16a(1) or 16 b(1); please describe the directors' plans for seeing that the target dates are met. (DISCUSS below or an attached schedule.) Schedule No. _____

17. Surety Bond. List below the credit union's surety bond coverage.
   a. Name of carrier _____
   b. Standard form number of the bond (i.e. 23, 576, 577, 578, 581, 562 CU-1, other) _____
   c. Basic amount of coverage $ _____
   d. Bond premium paid to (date) _____
   e. What is the amount of coverage required by State law or your bylaws? _____
   f. Riders to the bond (list below) (i.e., faithful performance, forgery, misplacement, etc.)

18. Credit Union Services
   Does the credit union render any services to or perform any functions on behalf of the members, non-members, organizations, or the public other than the usual savings and loan services for members?
   a. Attach a schedule describing each activity in full. Schedule No. _____

19. Does the credit union know of any adverse economic condition that is affecting or will affect its present or future operation or that of the sponsor organization?
   a. Attach a schedule describing the condition and its possible effect on the credit union's future. Schedule No. _____

20. To the best of the credit union's knowledge and belief, has any director, officer, committee member, or employee been convicted of any criminal offense involving dishonesty or breach of trust?
   a. Attach a statement describing the circumstances. Schedule No. _____

21. Lending policies and practices:
   a. Complete (on page 4) showing the present policies and practices on loans to members.
   b. Complete page 5 in accordance with the instructions pertaining to Item No. 21 b.

LENDING POLICIES AND PRACTICES

	Maximum Loan Amount	Maximum Period of Repayment	Required Amount of Downpayment (Equity)
1. *Credit Union Policies and Practices*			
a. Unsecured Loan Limits			
b. Secured Loan Limits			
(1) New Auto Collateral			
(2) Used Auto Collateral			
(3) Real Estate			
(a) First Mortgage			
(b) Second Mortgage			
(4) Comakers			
(5) Others (describe)			
c. Loans to Organizations			
d. Loans to Director, Officers, or Committee Members			
2. *State Credit Union Law; Bylaws*			
a. Unsecured Loan Limits			
b. Secured Loan Limits			
c. Loans to Directors, Officers, or Committee Members			

List below or an attached page, any additional policies, including the interest rates applied to members' loans and the method of assessing and accounting for interest income, i.e.: add-on, discount or unpaid balance.

SCHEDULE OF LARGEST LOANS

Complete this form as discussed in the instructions pertaining to Item 21b.

Account No.	Unpaid Loan Balance	Repayment Period (No. Months)	Status of Repayment		Appraised Collateral Value*	Description of Collateral
			Current	Delinquent (No. Months)		

*if there is more than one type of collateral assign value to each type.

CREDIT UNION SERVICE ORGANIZATION (CUSO)

1. Name of CUSO _____

2. Date of CUSO'S Organization _____
   (Date of obtaining charter from State)

3. Type of organization (circle one):

   a. General Partnership c. Joint Ownership

   b. Limited Partnership d. Corporation

4. Owners of CUSO (list name, charter number if FCU, and percentage of ownership, if possible).

	Name - Charter Number (If FCU)	%	Name - Charter Number (If FCU)	%
a.				
b.				

(Continue on reverse side if additional space is required)

5. Capitalization (list investors and amount of investment in CUSO).

	Name - Charter Number (if FCU)	Amount	Name - Charter Number (if FCU)	Amount
a.				
b.				

(Continue on reverse side if additional space is required)

6. List all known services which are being offered by CUSO (be as specific as possible).

_____

_____

_____

7. Comments (include all other pertinent information, if applicable, not previously discussed).

_____

_____

_____

8. Attach latest Financial and Statistical Report of CUSO, if available.

INSTRUCTIONS FOR COMPLETION OF APPLICATION OF A STATE CHARTERED CREDIT UNION FOR INSURANCE OF ACCOUNTS

The application and all supporting documents should be prepared, photocopied, and submitted in accordance with the procedures outlined in the letter that transmitted these instructions. Additional schedules may be included if deemed appropriate.

All items should be completed. If the answer given to a question is followed by the word "Stop," proceed to the next numbered question. If, however, the answer given is followed by instructions, the additional parts of that question should be completed before going on to the next question.

When page 1 specifies that a schedule should be prepared and attached, please assign a schedule number in consecutive order, starting with number one. Please show the schedule number at the top right-hand corner of the schedule.

Some of the items are self-explanatory and require no special instructions. Other items, however, need special explanations, definitions, and instructions for completion. These are listed below, identified by the same item numbers as appear in Exhibit A.

Item No. 5: Show whether the sponsor organization is associational, occupational or residential. If occupational, please show the specific products or services produced.

Item No. 10: Reserves: The term "reserve" in Exhibit A means that account, or accounts, which represents segregated portions of earnings as provided by the law, bylaws, and/or the credit union's management for the absorption of losses relating to loans to members. (These accounts are usually called Regular Reserve, Reserve for Bad Debts, Guarantee Reserve, Guarantee Fund, Special Reserve for Losses, and Allowance for Loan Losses.)

Item No. 11a: The delinquent loan list requested should include, for each delinquent loan, the account number of the borrower, date of loan, original amount of loan, unpaid balance, date of last payment of principle, excluding transfers from pledged shares, collateral, and comments regarding the collectibility of each loan in the categories 6 months to less than 12 months and 12 months and over. Payments of interest only should be so identified.

For the purpose of this application, loan delinquency will be determined on the basis of the borrowers' payments in relation to the terms of the notes, as follows:

If a loan is in arrears by two monthly payments plus any part of the third payment, the loan is 2 months delinquent and, therefore, the entire unpaid balance is shown in the 2 months to less than 6 months category. A loan in arrears a total of 6 monthly payments plus any part of the seventh payment would be 6 months delinquent and the entire unpaid balance shown in the 6 months to less than 12 months category. A loan in arrears a total of 12 monthly payments plus any part of the thirteenth payment would be 12 months delinquent and the entire unpaid balance shown in the 12 months and over category.

Item No. 11b: The schedule provided for the delinquent loan information is set up in delinquency categories of 2 months to less than 6 months, 6 months to less than 12 months, and 12 months and over. Credit unions that compute delinquency using categories other than shown in column (b) may use these other categories and show them in column (a). Credit unions using column (a) need not show the delinquencies in the column (b) categories. It is not necessary to report on loans which are delinquent less than 2 months.

Adverse Trends: If items 8, 9, or 11 indicate adverse trends such as significant decreases in shares, loans or reserves, increases in loan delinquency or loan charge-offs, or unresolved serious exceptions shown in the State examination report, the credit union may attach an explanation and identify it as "Explanation of Adverse Trends or Unresolved Examination Exceptions" and assign it a schedule number.

Item No. 14: This item need be completed only if the credit union owns any of the following:

A. Investments in U.S. Government securities guaranteed as to principle and interest or Federal Agency securities, the market value of which is now less than the book value.

B. Real estate other than that used entirely for the credit union's own office(s).

C. Other investments of any type except:

1. Loans to other credit unions.
2. Certificates of, or accounts in, federally insured savings and loan associations.
3. Certificates of deposit in National or State banks.
4. Deposits or accounts in State central credit unions.
5. Common trust investments with International Credit Union Services Corporation (ICUS).

If corporate bonds are listed, please show maturity date, rate of interest on bonds and current yield rate.

If stocks are listed, please show number of shares and bid price.

Please identify the source of the market valuation information and the date of such information.

Item No. 21 b: The largest loans to members should be shown on page 5. In selecting the loans for this Exhibit, list the largest outstanding unpaid loan balance and proceed in descending order by dollar amount until the number specified below has

been shown. The number of such loans to be listed will be determined as follows:

If your credit union has the following no. of outstanding loans	You should list the following no. of the largest unpaid balances
Under 100	5
100 to 199	10
200 to 299	15
300 to 399	20
400 or more	25

If any of the above loans are delinquent, please show the number of months delinquent in the appropriate "Status of Repayment" column.

Page 6: Complete page 6 for each investment/loan to a Credit Union Service Organization (CUSO).

TERMINATION OF INSURANCE

Should the credit union, after obtaining insurance of member accounts, desire to terminate its insured status, this could be accomplished by complying with the provisions of Section 206(a), (c) and (d) of Title II of the Federal Credit Union Act. This action would require approval by a vote of the majority of the members, and ninety days written notice of the proposed termination date to NCUA. Member accounts would continue to be insured for one year following termination of insurance and the insurance premium would be paid during that period. After termination of insurance, the credit union shall give prompt and reasonable notice to all members whose accounts are insured that it has ceased to be an insured credit union.

Sections 206(a)(2) and 206(d)(2) and (3) of the Act provide that an insured credit union may also terminate its insurance by converting from its status as an insured credit union under the Act to insurance from a corporation authorized and duly licensed to insure member accounts. In this event, approval is required by a majority of all the directors and by affirmative vote of a majority of the members voting, provided that at least 20 percent of the members have voted on the proposition. Under this provision for termination, insurance of member accounts would cease as of the date of termination.

APPLICATION AND AGREEMENTS FOR INSURANCE OF ACCOUNTS STATE CHARTERED CREDIT UNION

TO: The National Credit Union Administration Board Date _____

The _____ Credit Union,

Insurance Certificate Number _____ (if applicable)

_____

(mailing address) (city) (state) (zip code)

applies for insurance of its accounts as provided in Title II of the Federal Credit Union Act, and in consideration of the granting of insurance, hereby agrees:

1. To permit and pay the cost of such examinations as the NCUA Board deems necessary for the protection of the interests of the National Credit Union Share Insurance Fund;

2. To permit the Board to have access to all records and information concerning the affairs of the credit union, including any information or report related to an examination made by or for any other regulating authority, and to furnish such records, information, and reports upon request of the NCUA Board;

3. To possess such fidelity coverage and such coverage against burglary, robbery, and other losses as is required by Parts 701.20 and 741 of NCUA'S regulations;

4. To meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on Federal Credit Unions by Section 116 of the Federal Credit Union Act and Parts 702 of NCUA'S regulations, and to maintain such special reserves as the NCUA Board may be regulation or on a case-by-case basis determine are necessary to protect the interests of members. Any waivers of the statutory reserve or full and fair disclosure requirements or any direct charges to the statutory reserve other than loss loans must have the prior written approval of the NCUA Board. In addition, corporate credit unions shall be subject to the reserve requirements specified in Part 704 of NCUA'S regulations;

5. Not to issue or have outstanding any account or security the form of which has not been approved by the NCUA Board, except accounts authorized by state law for state credit unions;

6. To maintain the deposit and pay the insurance premium charges imposed as a condition of insurance pursuant to Title II (Share Insurance) of the Federal Credit Union Act;

7. To comply with the requirement of Title II (Share insurance) of the Federal Credit Union Act and of regulations prescribed by the NCUA Board pursuant thereto; and

8. For any investments other than loans to members and obligations or securities expressly authorized in Title I of the Federal Credit Union Act, as amended to establish now and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When, as of the end of any dividend period, the amount in the investment Valuation Reserve exceeds the difference between book value and market value, the board of directors may authorize the transfer of the excess to Undivided Earnings.

9. When a stat-bartered credit union is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units, such nonmember accounts shall be identified as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union will advise any present nonmember share and deposit holders by letter that their accounts are not insured by the National Credit Union Share insurance. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.

10. In the event a state-chartered credit union chooses to terminate its status as a federally-insured credit union, then it shall meet the requirements imposed by Sections 206(a)(I) and 206(c) of the Federal Credit Union Act and Part 741.6 of NCUA'S regulations.

11. In the event a state-chartered credit union chooses to convert from federal insurance to some other insurance from a corporation authorized and duly licensed to insure member accounts, then it shall meet the requirements imposed by Sections 206(a)(2), 206(c), 206(d)(2), and 206(d)(3) of the Federal Credit Union Act.

In support of this application we submit pages 1-6 and Schedules described below:

Schedule No.	Title

CERTIFICATIONS AND RESOLUTIONS

We, the undersigned, certify that we are the duly elected and qualified presiding officer and recording officer of the credit union and that at a properly called and regular or special meeting of its board of directors, at which a quorum was present, the following resolutions were passed and recorded in its minutes:

We, the undersigned, certify to the correctness of the information submitted.

Be it resolved that this credit union apply to the National Credit Union Administration Board for insurance of its accounts as provided in Title II of the Federal Credit Union Act.

Be it resolved that the presiding officer and recording officer be authorized and directed to execute the Application and Agreement for Insurance of Accounts as prescribed by the NCUA Board and any other papers and documents required in connection therewith and to pay all expenses and do all such other things necessary or proper to secure and continue in force such insurance.

We further certify that to the best of our knowledge and belief no existing or proposed officer, committee member, or employee of this credit union has been convicted of any criminal offense involving dishonesty or breach of trust, except as noted in attachments to this application. We further agree to notify the Board if any existing, proposed or future officer, committee member or employee is indicted for such an offense.

_____
(Signature) Presiding Officer, Board of Directors

_____
(Print or type Presiding Officer's Name)

_____
(Signature) Recording Officer, Board of Directors

_____
(Print or type Recording Officer's Name)

BILLING CODE 4210–01–C

Appendix E—Trade Associations

Credit Union National Association (CUNA), P.O. Box 431, Madison, WI 53701, 608–231–4000

National Association of Federal Credit Unions (NAFCU), 3138 N. 10th Street, Suite 300, Arlington, VA 22201, 703–522–4770

National Association of State Credit Union Supervisors (NASCUS), 1901 North Fort Myer Drive, Suite 201, Arlington, VA 22209, 703–528–8351

National Federation of Community Development Credit Unions (NFCDCU), 120 Wall Street, 10th Floor, New York, NY 10005–3902, 212–809–1850

[FR Doc. 98–34032 Filed 12–29–98; 8:45 am]

BILLING CODE 4210–01–P