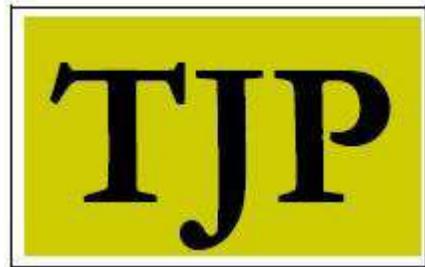


## Establishing a Federal Credit Union

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### INTRODUCTION

A credit union is a member-owned, member-controlled, not-for-profit cooperative financial institution formed to permit groups of persons to save, borrow, and obtain related financial services and to participate in its management. Member ownership and control are what make credit unions unique.

In 1934, Congress passed the Federal Credit Union Act "to establish a Federal Credit Union System, to establish a further market for securities of the United States and to make more available to people of small means, credit for provident purposes through a national system of cooperative credit, thereby helping to stabilize the credit structure of the United States." That Act set the basic structure which governs federal credit unions today:

- Shares purchased by its members fund each credit union. The purchase of a share allows the member to become an owner with the right to vote.
- Membership is limited to groups, each defined in the credit union's charter, who share a common bond of occupation or association or are located within a well-defined neighborhood, community, or rural district.
- Member control is democratically exercised regardless of the number of shares held. No member has more than one vote.
- Management is placed in the hands of volunteers. Only one board officer may be compensated. No other member of the board of directors or any other committee member shall, as such, be compensated.
- Loans, which are the primary investment for credit unions, are made exclusively to members.

The passage of the Federal Credit Union Act established an administrative structure within the federal government for the supervision of federal credit unions. This structure was administered by a succession of federal agencies over the years until Public Law 91-206 was enacted in 1970. This law formed the National Credit Union Administration (NCUA) as an independent agency with responsibility for regulating and chartering federal credit unions.

Also, in that year, Congress established the National Credit Union Share Insurance Fund within NCUA to insure the shares of all federal credit unions and participating state credit unions. The Fund is backed by the full faith and credit of the U.S. Government.

NCUA's chartering policies are directed toward achieving three goals:

- To uphold the provisions of the Federal Credit Union Act concerning granting federal charters;
- to promote credit union safety and soundness; and
- to make quality credit union service available to all eligible groups who wish to have it.

NCUA may grant a charter to any group or combination of groups desiring credit union service where it finds:

- The groups possess an appropriate common bond;
- the subscribers are of good character and are fit to represent the group, and
- establishment of the credit union is economically advisable - i. e., it will be a viable institution, and its chartering will not materially affect the interests of other credit unions or the credit union system.

Generally, NCUA will look only for these criteria. In unusual circumstances, however, NCUA may consider other factors, such as other federal law or public policy, in deciding if a charter should be approved.

### ***COMMON BOND***

Congress, in the Federal Credit Union Act, has recognized three types of federal credit union common bonds -- occupational, associational, and community. A federal credit union may also consist of a combination of occupational, associational, and, in certain limited circumstances, community groups. For example, NCUA may charter a federal credit union consisting of employees of a local school district and members of a church group.

#### ***Associational Common Bonds***

A federal credit union may include in its field of membership, regardless of location, all members of a recognized association.

NCUA limits this common bond to groups consisting primarily of individuals (natural persons) who participate in activities developing common loyalties, mutual benefits, and mutual interests. Except for student, church, and similar groups, all 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 and a geographic limitation. Therefore, with the exceptions noted above, applicants for an associational-based federal credit union charter must provide a copy of the association's charter and bylaws.

Qualifying associational groups must hold meetings open to all-natural person members at least once a year, must sponsor other activities which demonstrate that the members of the group meet and regularly interact to accomplish the objectives of the association, and must have an authoritative definition of who is eligible for membership - usually, this will be the association's charter and bylaws.

In determining whether a group satisfies the common bond requirement for a federal credit union charter, NCUA will consider the totality of the circumstances -- such as whether members pay dues, have voting rights, and hold office, whether the group maintains a membership list, the clarity of the associational group's definition and compactness of its membership, and the frequency of meetings and the interaction of members. A support group, whose members are continually changing, may not meet the criteria.

NCUA's focus concerning chartering associational federal credit unions will be on the group's natural person members. In certain instances, however, NCUA will also allow non-natural persons (e.g., corporate sponsors, entities participating in programs to alleviate poverty and distress, or organizations of members) to be eligible for membership. Not every non-natural person member of the group needs to be a recognized legal entity; NCUA will consider such groups on a case-by-case basis.

Student groups -- for example, parent-teacher organizations, alumni associations, and students in a trade school or other curriculum -- and church groups constitute associational common bonds and may qualify for a federal credit union charter. Since such groups usually do not have a formal association charter, there is no requirement for these groups to provide a charter or bylaws.

Homeowner associations, tenant groups, electric co-ops, consumer groups, and other groups of persons having an "interest in" a cause and certain consumer cooperatives may be eligible to receive a federal charter. However, they must make a strong showing of common activities that clearly demonstrate that the group meets and regularly interacts to accomplish the objectives of the association. Furthermore, they must provide clear evidence of economic viability.

Newly-organized associations must make a similarly strong showing of common activities. Experience has shown that a new group's efforts are best focused on solidifying member interest before attempting to offer credit union service.

The associational sponsor itself may also be included in the field of membership - e.g., "ABC Association" - and will be shown in the last clause of the field of membership.

### ***Widely Dispersed Associational Charters***

NCUA policy is to charter associational federal credit unions at the lowest organizational level, which is economically feasible. NCUA will grant associational charters with widely dispersed memberships only where demonstrated to be in the best interests of the association's members and the credit union community, and only after scrutinizing the adequacy of the applicant's common bond and the economic advisability of a more compact

field of membership. NCUA, in its discretion, may require that the proposed field of membership be narrowed before granting a new charter. Amendment to include a larger portion of the association's members may be allowed later, if appropriate.

Also, as with any widely-dispersed group, overlap issues are likely to arise, either at the time of or after chartering. NCUA will consider the effect that granting a charter with such a group in its field of membership would have on any number of existing credit unions. In addition, an associational credit union with a widely-dispersed membership may expect overlaps, particularly at the local level, to be granted to other credit unions in the future.

In recognition of these unique circumstances, NCUA follows a separate internal procedure for associational charter applications for associations with proposed fields of membership of 500 or more persons which cross NCUA regional boundaries. NCUA's Director of Examination and Insurance and all NCUA regional directors with any of the association's members located in their region must vote on the charter application. A majority vote is required for approvals. Tie votes are referred directly to the NCUA Board for decision.

### ***Limits of Associational Common Bond***

Except for retiree clubs and low-income groups (discussed below), associations formed primarily to obtain a federal credit union charter do not have a sufficient associational common bond. Similarly, associations based on a client-customer relationship - for example, an insurance company and its customers or a buyer's club and its members -do not have a sufficient associational common bond.

The common bond extends only to the association's members. The employees of a member of a local chamber of commerce, for example, do not have a sufficiently close tie to the association to be included. A proposal to include these persons among those to be served by the federal credit union may be considered as a multiple-group charter application. In such cases, letters of support and request for service must be provided from each separate entity.

### ***Sample Associational Fields of Membership***

Some examples of associational group definitions are:

- "Regular members of Locals 10 and 13, IBEW, Miami, Florida, who qualify for membership in accordance with their charter and bylaws in effect on May 20, 1994."
- "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, 1994."
- "Members of the First Baptist Church in Topeka, Kansas."
- "Members of the Shalom Congregation in Chevy Chase, Maryland."

- "Regular members of the Corporate Executives Association, located in Westchester, New York, who live or work in Westchester, Rockland, and Suffolk Counties in New York, who qualify for membership in accordance with its charter and bylaws in effect on December 1, 1994."
- "Members of the Northern Michigan Electric Co-op located in Marquette, Michigan."
- "Members of the ABC Association living or working in New York, New York, who qualify for membership in accordance with its charter and bylaws in effect on January 21, 1994."

Some examples of insufficiently defined associational group definitions are:

- "Members of military service clubs in the State of New Mexico." (No single associational tie; specific clubs and locations must be named; may be considered as multiple groups.)
- "Veterans of U.S. military service." (Group is too broadly defined; no formal association of all members of the group.)

Some examples of unacceptable associational common bonds are:

- "Members of ABC Buyer's Club." (An interest in purchasing does not meet associational standards.)
- "Customers of ABC Insurance Company." (Policyholders or customer/client relationships do not meet associational standards.)

### ***Other Persons Sharing Common Bonds***

Several persons by 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."
- "Members of their immediate families."
- "Volunteers."
- "Organizations of such persons."

"Members of their immediate families" may be generally defined as deemed appropriate by a federal credit union when including this group among those to be served. To be made effective, however, the federal credit union's board of directors must approve the definition

by resolution and include it in Article XVIII, Section 2 of its bylaws. NCUA approval is not necessary.

Volunteers, by their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or church.

Under Article II, Section 5 of NCUA's Standard Bylaws, if a member leaves the field of membership, standard member services are terminated. However, the board of directors may, by resolution, set forth the circumstances under which a member may maintain membership. This option is commonly referred to as the "once a member, always a member" bylaw provision. NCUA approval of this provision is not necessary.

### **SUBSCRIBERS**

Federal credit unions are organized by persons who donate time and resources and are responsible for determining the interest, commitment, and advisability of forming a federal credit union. Organizing a federal credit union takes considerable planning and dedication to ensure the success of the new credit union.

Persons interested in organizing a federal credit union should contact the NCUA regional office serving the state in which the credit union will be organized or one of the trade associations. Lists of NCUA offices and 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.

The credit union organizer may be a trade association representative or a person with training and experience in chartering new federal credit unions. 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 group members are critical to the chartering process.

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

- The names 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.
- The term of the existence of the corporation, which may be perpetual.
- 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 the organization certificate may be grounds for federal criminal prosecution.

## ***ECONOMIC ADVISABILITY***

### ***Viability***

#### ***General***

Before chartering a federal credit union, NCUA must be assured that the institution will be viable and that it will not materially affect existing state or federal credit unions. This economic advisability inquiry had become especially important since 1970 when Congress assigned NCUA the obligation to establish a fund insuring credit union members' shares and to preserve that fund.

NCUA will conduct an independent, on-site investigation of each charter application to assure itself 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.

#### ***Proposed Management's Character and Fitness***

The Federal Credit Union Act requires NCUA to satisfy itself as to the "general character and fitness" of the subscribers. In addition, prospective officials and employees will be subject to credit and background investigations. The investigation reports must demonstrate their ability to handle financial matters effectively.

NCUA also needs 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.

#### ***Member Support***

While NCUA has not set a minimum size field of membership for chartering a federal credit union, experience has shown that a credit union with under 500 potential members is generally unlikely to succeed. Therefore, a charter applicant with a proposed field of membership of under 500 must demonstrate convincing support for the credit union. For example, a small occupational group must demonstrate a commitment to significant long-term support from the employer.

The group's size is meaningful only if members participate in the credit union. The charter applicant must show that a substantial percentage of the group's members will join the

credit union and use its services. Survey results must be based, at a minimum, on a sampling of 250 potential members. In particular, where the common bond is broadly defined or newly established, NCUA may require a larger sampling.

### ***Present and Future Market Conditions - Business Plan***

#### ***General***

The ability to compete in the marketplace and to adapt to changing market conditions is key to the survival of any enterprise, and a crucial part of that is the ability to plan well. NCUA, therefore, requires an applicant to submit a business plan based on realistic and supportable projections and assumptions, including, as a minimum, these

- Mission statement;
- analysis of market conditions - economic prospects for the group, availability of financial services from other credit unions, banks, and savings and loans;
- summary of survey results;
- financial services needed/desired;
- financial services to be provided;
- how/when services are to be implemented;
- staffing of credit union and credentials of key employees;
- physical facility - office, equipment;
- type of record-keeping system, including consideration of a data processing system;
- budget for 1st and 2nd year;
- semiannual pro forma financial statements for 1st and 2nd year, including assumptions - e.g., loan and dividend rates;
- goals for the number of members;
- goals for operating independently; \source of funds to pay expenses during initial months of operation; \written policies (shares, lending, investments, funds management, capital accumulation, dividends);
- goals for shares and loans;
- plan for continuity - directors, committee members; and
- evidence of sponsor commitment if subsidies are critical to the success of the federal credit union - evidence may be in the form of letters, contracts, or any other

such document on which the proposed federal credit union can substantiate its projections.

NCUA expects that the subscribers and proposed officials will understand and support the business plan submitted.

### ***Effects on Other Credit Unions -- Overlaps***

(This discussion pertains to new and existing charters.)

#### ***IV.B.1 -- Overlaps in General***

An overlap exists when a group of persons is eligible for membership in two or more credit unions, including state charters. The general policy requires that every reasonable effort be made to avoid overlap. Ideally, a group of persons should be included in the field of membership of only one credit union.

New credit unions are obligated to investigate the possibility of overlap before applying for a new charter by surveying the prospective field of membership.

When a potential overlap situation does arise, officials of the involved credit unions must attempt to work the problem out between or among themselves. In the case of a new federal credit union applying for or converting to a community field of membership, the applicant will generally be required to contact only those credit unions with a service facility within the community boundary. Other credit unions serving select groups within the proposed area will not ordinarily be contacted or afforded overlap protection unless a significant portion of their field of membership is affected. If the matter is resolved informally, 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, an application for a new charter may still be submitted, but must also include information regarding the overlap and document attempts at informal resolution. Documentation on the interests of the group, such as a petition signed by most of the group's members, will be strongly considered.

When the resolution of the issue is not possible, and other circumstances warrant, an overlap may be permitted. Among the circumstances which may justify an overlap are:

- Failure of the original credit union to provide quality service;
- limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period; and
- incidental overlap -- the group of persons in question is so small as to have no material effect on the original credit union.

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), the desire of the sponsor organization, the opinion of the state credit union

supervisor and other interested parties, as applicable, and the best interests of the affected group and the credit union members involved.

Potential overlaps of a 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. However, where a state credit union's field of membership is so general as to include virtually everyone in a wide area, NCUA may exclude any state credit union from overlap protection altogether just as it would with a federal credit union with a broadly defined field of membership. Prior to making that decision, the regional director will consult the credit union and the state regulator. Any decision by the regional director will be provided in writing to the credit union and the state regulator.

Generally, NCUA will permit federal credit unions serving occupational groups to overlap associational and community charters. However, should the proposed overlap pose significant safety and soundness concerns, NCUA may provide overlap protection for any type of charter. For example, labor union groups constitute a common associational bond, and while some labor unions serve members who regularly work for several employers, others have members who work for only one employer. In these latter cases, overlap protection may be provided if the credit union serves a substantial portion of the company's employees.

Some situations may not justify the approval of a requested overlap. For example, if the requesting credit union offers certain specialized services not offered by the original credit union (such as credit cards, ATMs, and IRAs), the extra services alone may not justify the overlap. Also, proximity, by itself, may not warrant approval of an overlap. A federal credit union in Chicago, Illinois, may not have a convincing argument based on geography alone, that a select group also located in Chicago would be better served by it than by the select group's headquarters credit union located in Dallas, Texas.

From an overlap prevention perspective, new charter applicants and every occupational or associational group which comes before the regional director for affiliation with an existing federal credit union must advise in writing whether the group is included within the field of membership of any other credit union. This requirement will alert the regional director to possible overlap situations before they occur.

This way avoids the most potential field of membership conflicts. If cases do arise where the assurance given to a regional director concerning the unavailability of credit union service turns out later to be inaccurate, the misinformation is grounds for the removal of the group from the federal credit union's charter.

### ***SPECIAL SITUATIONS***

There are some instances where, because of overriding policy, special common bond rules apply. To ensure quality service to as many low-income and senior citizens as possible, NCUA has established broader common bond rules for federal credit unions seeking to serve those groups. Further, to expedite service to groups in industrial parks, shopping

centers, and similar areas, the documentation requirements for federal credit unions seeking to serve these groups have been simplified. Finally, to ensure consistency throughout the credit union movement, NCUA has centralized decision-making for the corporate credit union program in the Central Office.

### ***Low-Income Credit Union Groups***

#### ***General***

A low-income credit union is defined in Part 701.32 of the NCUA Rules and Regulations as one where most 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 income falls at or below 80 percent of the median household income for the nation. In documenting its low-income membership, a credit union that serves a geographical area where most residents fall at or below the annual income standard is presumed to be serving predominantly low-income members.

A credit union designated by NCUA as serving predominantly low-income members has greater flexibility in accepting nonmember deposits insured by the National Credit Union Share Insurance Fund. It may also participate in special funding programs such as the Community Development Revolving Loan Program for Credit Unions if it is involved in the stimulation of economic development and community revitalization efforts. A credit union participating in the revolving loan program is also eligible for technical assistance. The requirements for participation in the revolving loan program are set forth in Part 705 of NCUA's Regulations. Only operating credit unions are eligible for participation in the revolving loan program.

A federal credit union charter applicant meeting the definition of a low-income credit union should forward a separate request for low-income designation, along with appropriate documentation, at the time the charter application is submitted. A charter applicant's low-income designation will be based on its primary field of membership and not on its actual members, as is the practice for operating credit unions. In most cases, if the credit union qualifies, NCUA will grant the charter and low-income designation simultaneously.

A low-income federal credit union charter applicant may contract with a third party to assist in the chartering process. Even after the charter is granted, a low-income credit union may contract with a third party to provide necessary management services. Such contracts should be for one year subject to renewal. However, within three years of commencement of operations, the credit union should no longer require such services.

#### ***Special Common Bond Rules for Low-Income Federal Credit Unions***

Generally, a low-income credit union is chartered as a community or associational credit union. A low-income credit union that has a community common bond may include the following language in its field of membership:

"Persons who live in [the target area]; persons who regularly work, worship, perform volunteer services, or participate in associations headquartered in [the target area]; persons participating in programs to alleviate poverty or distress which are 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."

In recognition of the special efforts needed to help make credit union service available to persons in low-income communities, 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 its members will meet the low-income definition of Part 701.32 of NCUA's Regulations. The association in documenting its low-income membership may use the same types of documentation as is currently permitted for determining whether a community is low-income under Part 701.32 of NCUA's Regulations.

In addition, a proposed low-income community or associational-based federal credit union may include in its field of membership, without regard to location, another group constituting an occupational, associational, or community common bond. Except for the operational area requirements, the proposed credit union must meet all the requisites for including the group in its charter. Moreover, the proposed credit union must take care to ensure that it will continue to meet the requirements for low-income status.

### ***Special Common Bond Rules for Other Federal Credit Unions Seeking to Serve Low-Income Persons***

In the interest of making credit union service available to persons in low-income communities, NCUA also permits any occupational, associational, multiple group, or community federal credit union to include in its field of membership, without regard to location, communities, and associational groups satisfying the low-income definition of Part 701.32 of NCUA's Regulations. The credit union service, but must comprise only persons meeting NCUA's low-income definition.

The federal credit union adding the low-income community or association must document that the community or association meets the low-income definition in Part 701.32 of NCUA's Regulations, just as is required for a designated low-income credit union. A federal credit union adding such a community or association, however, would not be able to receive the benefits, such as expanded use of nonmember deposits and access to the Community Development Revolving Loan Program for Credit Unions, offered to low-income credit unions.

A federal credit union that desires to include a low-income community or association in its field of membership must first develop a business plan specifying how it will serve the entire low-income community. The business plan, at a minimum, must identify the credit and depository needs of the low-income community or association and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan, as well as loan penetration rates in the community, to determine if the

community is being adequately served. NCUA will require periodic service status reports on its service to the low-income community and may review the credit union's service to low-income persons during examinations.

### ***NAME SELECTION***

It is the responsibility of federal credit union organizers to ensure that the federal credit union applicant's name or federal credit union name change does not constitute an infringement on the name of any corporation in their trade area. This responsibility also includes researching any service marks or trademarks used by any other credit union in their trade area. NCUA will ensure, to the greatest 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 federal credit union; and
- does not include inappropriate language.

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

### ***STEPS TO TAKE TO ORGANIZE A FEDERAL CREDIT UNION***

#### ***Getting Started***

Following the guidance contained throughout this policy, the organizers should submit the proposed field of membership to NCUA early in the process for written tentative approval.

Once the field of membership has been tentatively approved, and the organizer is satisfied, the application has merit, the organizers should conduct a preliminary 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.

The organizers and subscribers should arrange for any meetings necessary to develop the business plan discussed under "Present and Future Market Conditions - Business Plan" and to complete the documentation for submission to NCUA. Each of the required documents is discussed more fully later in this chapter.

The organizers and subscribers must apply for insurance of member accounts. The Certificate of Resolutions (NCUA 9501) will be executed by the prospective chief executive officer and recording officer. Following action on this issue, the prospective chief executive officer and the chief financial officer will execute the Application and Agreements for Insurance of Accounts (NCUA 9500). These documents should be provided to NCUA as part of the charter application.

The organizers and subscribers should also complete an NCUA 4012, Report of Official or Employee, for each prospective board member, credit and supervisory committee member, and employee. The NCUA 4012s should be submitted to NCUA as early as possible to enable the necessary credit reports and background checks to be obtained well in advance of the anticipated charter date. NCUA will pay the direct costs of acquiring such credit and background checks.

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 the meeting.

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

### ***Support for Charter Application***

#### ***General***

As discussed previously in this chapter, applicants for federal credit union charters must, at a minimum, provide evidence that:

- The group constitutes a recognized common bond;
- the subscribers, prospective officials, and employees are of good character; and
- the establishment of the credit union is economically feasible.

Also, the Federal Credit Union Act requires applicants to submit a sworn organization certificate setting forth seven criteria (see the section entitled "Subscribers" earlier in this chapter). To process the application and capture all required information, NCUA has developed certain chartering forms to assist organizers. See Appendix D for the necessary blank forms.

#### ***VII.B.2 -- Federal Credit Union Investigation Report, NCUA 4001***

Applications for new federal credit unions will be submitted on NCUA 4001. (State-chartered credit unions applying for conversion to the federal charter will use NCUA 4000. See Chapter 3 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. Associational charter applicants must include a statement of their membership criteria (normally the group's charter or bylaws) and current financial statements on the associational sponsor.

#### ***Report of Official and Employee, NCUA 4012***

This form documents the general background information of each official and employee of the proposed federal credit union. Each official must complete and sign this form. The

organizers must review each of the NCUA 4012s for elements -- criminal convictions, indictments, etc. -- that would prevent the prospective official or employee from serving in an official capacity. Further, such factors as past due credit obligations and bankruptcies disclosed during credit checks may disqualify an individual.

### ***Organization Certificate, NCUA 4008***

This document establishes the seven criteria required of subscribers by the Federal Credit Union Act and is signed by the subscribers and notarized. This document should be executed in duplicate. During his or her on-site contact, the NCUA staff member assigned to the case will assist in the proper completion of this document.

### ***Certification of Resolutions, NCUA 9501***

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

### ***Application and Agreements for Insurance of Accounts, NCUA 9500***

This document contains the agreements with which federal credit unions must comply to obtain the 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 the chief financial officer. Each prospective federal credit union must qualify for federal share insurance.

## ***NCUA REVIEW***

### ***General***

As discussed previously, NCUA may provide tentative approval of the proposed federal credit union's field of membership. Additionally, credit and background investigations may be conducted concurrently by NCUA with other work being performed by the organizers and subscribers to reduce the likelihood of delays in the chartering process.

Once NCUA receives a complete charter application package, an acknowledgment of receipt will be sent to the organizers within ten business days of receipt, and 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 will make every effort to process the application expeditiously.

The staff member will review the application package and verify its accuracy and reasonableness. The staff member will inquire into the financial management experience, suitability, and commitment of the proposed officials and assess economic advisability. The staff member will also assist the subscribers in the proper completion of the Organization Certificate, NCUA 4008. By assisting in the completion of the Organization Certificate, the

staff member may, without indicating his or her endorsement of the charter application, expedite the process.

The staff member will thoroughly analyze the prospective credit union's business plan for realistic projections, attainable goals, and time commitment. Any concerns will be reviewed with the organizers and discussed with the prospective credit union's officials.

The staff member will then make a recommendation to the regional director regarding the charter application. His or her recommendation may include specific provisions to be included in a Letter of Understanding and Agreement. In most cases, NCUA will require the prospective federal credit union's officials to agree not to engage in certain activities. The agreement is for a limited term -- usually 2 to 4 years. A sample Letter of Understanding and Agreement is provided in Appendix B.

### ***Regional Director Approval***

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

Generally, the examiner will contact the credit union officials shortly after approval of the charter to arrange for the initial examination (usually within the first six months of operation). Assistance in commencing operations is generally available through the various trade organizations listed in Appendix F.

### ***Regional Director Disapproval***

Where a regional director disapproves of any application, in whole or in part, under this chapter, the organizers will be informed in writing of the specific reasons for the action. Where applicable, the regional director will provide information concerning options or suggestions that they could consider for gaining approval or otherwise acquiring credit union service.

The letter of denial will include the procedure for and other information on the group's right to appeal the decision.

### ***The appeal of the Regional Director's Decision***

The procedures for filing an appeal of any actions taken by NCUA regional directors will be followed. If not included with the denial notice, a copy of these procedures may be obtained from the regional director who made the decision.

The prospective group may submit substantive new and additional information to the regional director for reconsideration. In these cases, 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 group may proceed with the appeal process.

## ***FUTURE SUPERVISION***

Once NCUA has granted a charter to a new federal credit union, an examiner will be assigned to supervise the credit union.

The examiner will be responsible for monitoring the progress of the credit union and ensuring it gets off to a good start. The examiner will also monitor compliance with the terms of the Letter of Understanding and Agreement. Typically, the examiner will require copies of monthly board minutes and financial statements.

Each federal credit union is examined regularly by NCUA to determine that it remains in compliance with law and regulation, and to determine that it does not pose an undue risk to the National Credit Union Share Insurance Fund.

The Federal Credit Union Act requires all newly chartered credit unions, up to 2 years after the charter anniversary date, to obtain NCUA approval before the appointment of any board member, any credit or supervisory committee member, or any senior executive officer. Part 701.14 of the NCUA 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 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.

## **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.

*Appeal* - The right of a credit union or charter applicant to request a reconsideration of an unfavorable NCUA decision to a higher authority.

*Associational common bond* – Association resulting from membership in an organization, participation in whose activities develops common loyalties, mutual benefits, and mutual interests. The association should hold regular meetings and sponsor other activities that provide for contact among members.

*Associational credit union* - A credit union whose field of membership consists primarily of persons who are members of one or more related associational groups.

*Business plan* - Plan submitted by a charter applicant or existing federal credit union addressing the economic viability of a proposed charter or field of membership addition.

*Charter* - The document which authorizes a group or combination of groups 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. The National Credit

Union Administration issues charters 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 characteristics that distinguish a group of persons from the public. There are only three common bonds which can serve as a basis for a group's forming or being included in a federal credit union: employment by the same person or entity or group of entities ("occupational common bond"), membership in the same association ("associational common bond"), and residence, employment, or religious affiliation in the same geographic area ("community common bond").

Community common bond - Residence or employment of persons and businesses and other legal entities located within the same well-defined neighborhood, community, or rural district.

*Community credit union* - A credit union whose field of membership consists of persons who live or work in the same well-defined neighborhood, community, or rural district.

Conversion - The process of changing from a federal to a state or state to federal credit union charter.

*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. Federal credit unions are chartered as corporations under the Federal Credit Union Act.

*Economic viability* - 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, the authority of NCUA to merge two credit unions without regard to the field of the membership policy.

*Exclusionary clause* - A limitation, written in a credit union's charter, which precludes the credit union from serving a portion of a group otherwise 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 (persons may include organizations and other legal entities) a credit union is permitted to accept for membership. A federal credit union's field of membership, set forth in Section 5 of its charter, may be made up entirely of a single group, related groups with one common bond, or of unrelated groups, each having its own common bond.

*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 with new charter applicants, and occasionally with credit unions granted significant charter amendments and are for a limited time.

*Merger* - Absorption by one credit union of all 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 group credit union* - A credit union whose field of membership consists of groups of persons, each group with its own common bond. The groups may be occupational, associational, or a combination thereof and do not need to share a common bond or be in any way related to one another.

Occupational common bond - Employment by the same entity or related entities.

"Employment" includes long-term contractual arrangements, which are the practical equivalent of regular employment.

Occupational credit union - A credit union whose field of membership consists primarily of persons employed in the same entity or related entities.

*Operational area* - The region which, as determined by NCUA in its discretion, may reasonably be served by one of a credit union's service facilities.

Overlap - The situation which results when a group is eligible for membership in more than one credit union.

*Potential membership* - Persons eligible to become primary members of a federal credit union.

*Primary members* - Members sharing the basic occupational, associational, or community affinity to the field of membership.

*Purchase and assumption* - Purchase of all or a part of the assets of and assumption of all or a part of the liabilities of one credit union by another credit union. The purchased and assumed credit union must first be placed into involuntary liquidation.

*Select group* - An occupational or associational group with its own common bond.

Secondary or derivative members - Members included in the field of membership by their close relationship to a common bond group (e.g., immediate family members, employees of the credit union, etc.).

*Service facility* - A place where, as determined by NCUA in its sole discretion: (1) shares are accepted for members' accounts; (2) loan applications are accepted, or loans are disbursed; (3) a member can deal directly with a credit union representative; and (4) the service provided is associated with that credit union. An automated teller machine or similar device

is not a federal credit union service facility. Similarly, a branch or service center shared by several credit unions is not a service facility for purposes of this definition.

*Service status report* - Periodic written statements made by federal credit unions to NCUA summarizing the results of efforts to bring service to the employees or members of select groups.

*Subscribers* - For a federal credit union, at least seven individuals who sign the charter application and pledge at least one share.

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