



NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN: 3133- AF93

Chartering and Field of Membership

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to amend the associational common bond provisions of its chartering and field of membership (FOM) rules. The proposed FOM amendment would clarify that requiring the purchase of a product or service as a condition of membership no longer automatically bars eligibility as a recognized association. The Board does not believe such an automatic bar is required under the Federal Credit Union (FCU) Act, and a client-customer relationship as a condition of membership may still be incidental in a manner that permits an evaluation of the group's activities and overall circumstances.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments by any of the following methods (**Please send comments by one method only**):

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The docket number for this proposed rule is NCUA-2026-0661. Follow the “Submit a comment” instructions. If you are reading this document on [federalregister.gov](https://www.federalregister.gov), you may use the green “SUBMIT A PUBLIC COMMENT” button beneath this rulemaking’s title to submit a comment to the [regulations.gov](https://www.regulations.gov) docket. A plain language summary of the proposed rule is also available on the docket website.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mailing address.

Mailed and hand-delivered comments must be received by the close of the comment period.

Public inspection: Please follow the search instructions on <https://www.regulations.gov> to view the public comments. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received and will not be deleted, modified, or redacted. Comments may be submitted anonymously. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518–6540 or emailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: *Office of General Counsel:* Frank Kressman, General Counsel or Keisha Brooks, Attorney-Advisor, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The NCUA's Chartering and Field of Membership Manual, incorporated as Appendix B to part 701 of its regulations (Chartering Manual) implements the Federal Credit Union Act (FCU Act) for FCUs.¹ The proposed rule would enhance consumer access to financial services by eliminating language in the Chartering Manual that otherwise creates an automatic bar rather than permits evaluation of circumstances as whole.² The Board's goal in proposing this change is to center the core principles of credit union membership and eliminate an inflexible bar that goes beyond the requirements of the FCU Act. The proposed change affects only the requirements for associational common bonds.

B. Legal Authority

The Board is issuing this proposed rule pursuant to its rulemaking authority under section 109 of the FCU Act.³ Section 109(d)(3) directs the Board to issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether an additional group may be included within the FOM category of an existing multiple common bond federal credit union.⁴ Sections 109(a) and 109(f)(2)(E) reference more general rulemaking authority with respect to associational groups and federal credit union FOM.⁵ Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions.⁶ The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and all federally insured,

¹ 12 CFR part 701, app. B.

² The Board has codified the Chartering Manual in 12 CFR part 701, app. B.

³ 12 U.S.C. 1751 *et seq.*

⁴ 12 U.S.C. 1759.

⁵ 12 U.S.C. 1759.

⁶ 12 U.S.C. 1752-1775.

state-chartered credit unions. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe regulations for the administration of the FCU Act.⁷ Accordingly, the FCU Act grants the Board broad rulemaking authority to govern FOM within the confines of the law.

The NCUA's FOM policies are based on section 109 of the FCU Act.⁸ This section provides for three types of FCU charters: (1) single common bond (occupational or associational); (2) multiple common bond (more than one group, each having a common bond of occupation or association); and (3) community.⁹ Section 109 also describes the membership criteria for each of these three types of charters and grants the Board rulemaking authority with respect to each type.¹⁰

In adopting the Credit Union Membership Access Act of 1998 (CUMAA), which amended the FCU Act, Congress reiterated its longstanding support for credit unions, emphasizing their "specific mission of meeting the credit and savings needs of consumers, especially persons of modest means."¹¹ Congress enacted CUMAA in part to make clear the permissibility of multiple common bond credit unions after the Supreme Court ruled that the pre-CUMAA provisions of the FCU Act precluded multiple common bonds. Through the provisions of CUMAA, Congress directed the Board to encourage access to financial services for people of modest means, encourage competition among providers of financial services, and protect taxpayers by enhancing the safety and soundness of the credit union system and protecting the National Credit Union Share Insurance Fund.

⁷ 12 U.S.C. 1766(a).

⁸ 12 U.S.C. 1759.

⁹ 12 U.S.C. 1759(a).

¹⁰ 12 U.S.C. 1759(b).

¹¹ Pub. L. 105-219, 112 Stat. 913 (Aug. 7, 1998).

The Chartering Manual implements the chartering and FOM requirements that the FCU Act establishes for FCUs.¹² The Chartering Manual provides that the NCUA will grant a charter if the FOM requirements are met, the subscribers are of good character and fit to represent the proposed FCU, and the establishment of the FCU is economically advisable.¹³ In addition, “[i]n unusual circumstances . . . [the] NCUA may examine other factors, such as other federal law or public policy, in deciding if a charter should be approved.”¹⁴

Each type of charter has unique eligibility criteria for persons and entities eligible for inclusion in the FOM. This rule will not affect occupational common bond charters, community charters, or federally insured state-chartered credit unions. It will affect the current associational common bond requirements for single and multiple common bond FCUs.¹⁵

The FOM rules define, in relevant part, an associational common bond as “[a] common bond comprised of members...of a recognized association... whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.”¹⁶ Before enactment of CUMAA, the NCUA established the principle that an associational common bond could not be based primarily on a client or customer relationship. In 1989, the Board stated that “associations based on a client or customer relationship—an insurance company’s customers or a buyer’s club, for example,” do not qualify.¹⁷ In 1998, the Board implemented CUMAA through Interpretive Ruling and Policy Statement (IRPS) 99-1.¹⁸ As part of a larger effort to update the definition for

¹² 12 CFR part 701, app. B. The Chartering Manual addresses all aspects of chartering FCUs. In that respect, it is similar to the regulations of the Office of the Comptroller of the Currency applicable to the chartering of national banks or federal savings associations. 12 CFR part 5.

¹³ See 12 CFR part 701, app. B., Ch. 1, Section I.

¹⁴ *Id.*

¹⁵ The Chartering Manual states that a single common bond FCU consists of one group having a common bond of occupation or association. A multiple common bond FCU consists of more than one group, each of which has a common bond of occupation or association.

¹⁶ See 12 CFR part 701, app. B., Appendix 1 - Glossary.

¹⁷ 54 FR 31166 (July 27, 1989).

¹⁸ 63 FR 71998, 72008 (Dec. 30, 1998).

associational common bonds, the Board added clarifying language that “having an incidental client-customer relationship does not preclude an associational charter as long as the associational common bond requirements are met.”¹⁹ As an example of an incidental client-customer relationship, the Board also provided that “a fraternal association that offers insurance, which is not a condition of membership, may qualify as a valid associational common bond.”²⁰

While CUMAA resurrected the multiple common bond charter in response to litigation, neither the FCU Act nor CUMAA specify whether a client-customer relationship would be automatically disqualifying. At present, the FOM rules state that “[a]ssociations based primarily on a client-customer relationship do not meet associational common bond requirements.”²¹ The rules state, as an example of an incidental client-customer relationship, that “a fraternal association that offers insurance, which is not a condition of membership, may qualify as a valid associational common bond.”²² Thus, current FOM rules imply that a fraternal association’s requirement to purchase insurance as a condition of membership is automatically disqualifying. This implication has led to the conclusion that “a fraternal association that offers insurance may qualify as a valid associational common bond only if the purchase is not a condition of membership.”²³ If the fraternal association requires the purchase of insurance as a condition of membership, it may not qualify regardless of other factors that may be relevant to determining whether the association is based primarily on a client-customer relationship. The Board has carefully considered the legal requirements underlying the proposed rule and believes that the changes are consistent with the FCU Act while reducing confusion and unnecessary restraints on eligibility.

¹⁹ 63 FR 71998, 72028 (Dec. 30, 1998).

²⁰ *Id.*

²¹ 12 CFR part 701, app. B., Ch. 2. Section III.A.1.c.

²² 12 CFR part 701, app. B., Ch. 2. Section III.A.1.c.

²³ See NCUA Board Decision, *In The Matter Of [Redacted By Agency] Field Of Membership Appeal*, Docket No. BD-03-24, 2024 WL 5245712 at *6-7 (Dec. 1, 2024).

II. Proposed Rule

The proposed change would clarify that requiring the purchase of a product or service as a condition of membership does not automatically disqualify an associational group from eligibility, provided that the client-customer relationship continues to be incidental to the group's activities. In reviewing applications to determine eligibility, the NCUA will consider the entirety of the circumstances, similar its review of groups under the totality of the circumstances test.²⁴ The particular details of a group's structure, scope and degree of its activities, and other operational factors will determine whether its relationship with its members is primarily or incidentally a client-customer relationship.²⁵ While requiring a product or service as a condition of membership may reduce the likelihood of eligibility, the NCUA will nevertheless weigh the totality of an associational group's activities before determining whether the client-customer relationship is incidental to the common bond as a whole and, therefore, permits eligibility. Indicators of whether a client-customer relationship is incidental include whether it is secondary to the primary purpose and mission of the associational group or the central purpose for which the group exists. In other words, the client-customer relationship may be supportive or supplementary to the associational group's activities and common bond, but it cannot be the core reason for its existence. Retail loyalty clubs,

²⁴ See OGC Legal Opinion No. 13-044 (May 2013), <https://ncua.gov/regulation-supervision/legal-opinions/2013/electric-cooperatives> (“The NCUA considers all of these factors together. No one factor alone is determinative of membership eligibility as an association. This includes whether the cooperative requires its members to purchase electricity from it...The totality of the circumstances controls over any individual factor.”); NCUA Board Decision, *In The Matter Of Tri-State Federal Credit Union*, Docket BD-18-10, 2010 WL 11814914 (December 1, 2010) (after reviewing the totality of the circumstance, concluding that “[a]lthough the YMCA is a non-profit organization, the monthly membership fees at the YMCA are indicative of a client-customer relationship”).

²⁵ In 2015, the NCUA amended the Chartering Manual to allow automatic qualification under the associational common bond rules to certain categories of groups, including fraternal organizations whose members have voting rights. 80 FR 25924 (May 6, 2015). The Board clarified in the preamble “that when a group ‘automatically’ satisfies the associational common bond requirements, it means that the group will not be reviewed under the totality of the circumstances test. The Chartering Manual’s other prerequisites for an FCU’s charter expansion, including an FCU’s capitalization level and safety and soundness record, must still be satisfied.” 80 FR at 25927. The Board notes, here, for further clarity, that if a group is within the pre-approved categories listed in the Chartering Manual, no further inquiry into the circumstances of a client-customer relationship or the purpose of the group’s formation applies.

for example, have a client-customer relationship as their core reason for existence and would not qualify.

The Board invites comments on all aspects of the proposed rule. Specifically, the Board seeks comment on other relevant factors to determine whether an association's relationship with its members is primarily or incidentally a client-customer relationship.

III. Regulatory Procedures

A. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023²⁶ (Act) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002²⁷ (commonly known as regulations.gov). The Act, under its terms, applies to notices of proposed rulemaking and does not expressly include other types of documents that the Board publishes voluntarily for public comment, such as notices and interim-final rules that request comment despite invoking "good cause" to forgo such notice and public procedure. The Board, however, has elected to address the Act's requirement in these types of documents in the interests of administrative consistency and transparency.

In summary, the Board proposes to amend the associational common bond provisions of its chartering and FOM rules. The proposed FOM amendment would clarify that requiring the purchase of a product or service as a condition of membership no longer automatically bars eligibility as a recognized association. The Board does not believe such an automatic bar is required under the FCU Act, and a client-customer relationship as a condition of membership may still be incidental in a manner that permits a holistic evaluation of the group's activities and circumstances.

²⁶ 5 U.S.C. 553(b)(4).

²⁷ 44 U.S.C. 3501 note.

The proposal and the required summary can be found at <https://www.regulations.gov>.

B. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), as amended by Executive Order 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.²⁸ Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.²⁹ This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. This proposed rule eliminates an excessively burdensome, bright-line rule to allow a principles-based determination consistent with the parameters of the FCU Act and is consistent with Executive Order 13563. OMB has determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f)(1) of Executive Order 12866 .

Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.³⁰ This proposed rule is expected to be a deregulatory action for purposes of Executive Order 14192.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking

²⁸ 58 FR 51735 (Oct. 4, 1993).

²⁹ 76 FR 3821 (Jan.21, 2011).

³⁰ 90 FR 9065 (Feb. 6, 2025),

requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.³¹ If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.³² For purposes of this analysis, the NCUA considers small credit unions to be those having under \$100 million in assets.³³ The Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

The proposed amendments would alleviate burden and provide regulatory relief to single associational groups and multiple common bond FCUs of all sizes. The regulatory relief is difficult to quantify and creates only a limited additional flexibility with respect to applications to add associational groups to the FOM.

Accordingly, based on its best assessment at this time, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small credit unions.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and notwithstanding any other provision of law, a person is not required to respond to, a collection of information, unless it displays a currently valid Office of Management and Budget control number. The PRA applies to rulemakings in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information-collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA has determined that the changes addressed in this proposed rule do not create a new information collection or revise an existing information collection as defined by the PRA.

³¹ 5 U.S.C. 601 *et seq.*

³² 5 U.S.C. 605(b).

³³ 80 FR 57512 (Sept. 24, 2015).

E. Executive Order 13132 on Federalism

Executive Order 13132 encourages certain agencies to consider the impact of their actions on state and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), complies with the executive order to adhere to fundamental federalism principles. This proposed rule would only apply to FCUs. The NCUA expects that any effect on states or on the distribution of power and responsibilities among the various levels of government will be minor. The proposed changes would mainly clarify and provide relief with respect to the existing regulations and guidance in this area and are not intended to affect the division of responsibilities between the NCUA and state regulatory authorities with oversight of federally insured, state-chartered credit unions. The rulemaking would therefore not have direct effect on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.³⁴ The proposed rule relates to associational groups seeking to form single common bond FCUs and multiple common bond FCUs seeking to add associational groups to their FOMs. Any effect on family well-being is expected to be indirect.

List of Subjects in 12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious

³⁴ Public Law 105-277, 112 Stat. 2681 (1998).

discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

By the National Credit Union Administration Board, this 6th day of April, 2026.

Melane Conyers-Ausbrooks
Secretary of the Board

For the reasons stated in the preamble, the NCUA Board proposes to amend 12 CFR part 701, Appendix B 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, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

Appendix B to Part 701 – Chartering and Field of Membership Manual [Amended]

2. In appendix B to part 701, amend chapter 2 by revising section III to read as follows:

Chapter 2 – Field of Membership Requirements for Federal Credit Unions

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III – Associational Common Bond

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III.A.1.c – Additional Information

A support group whose members are continually changing or whose duration is temporary may not meet the single associational common bond criteria. Each class of member will be evaluated based on the totality of the circumstances. Individuals or honorary members who only make donations to the association are not eligible to join the credit union.

Student groups (e.g., students enrolled at a public, private, or parochial school) may constitute either an associational or occupational common bond. For example, students enrolled at a church sponsored school could share a single associational common bond with the members of that church and may qualify for a federal credit union charter.

Similarly, students enrolled at a university, as a group by itself, or in conjunction with the faculty and employees of the school, could share a single occupational common bond and may qualify for a federal credit union charter.

Tenant groups, consumer groups, and other groups of persons having an “interest in” a particular cause and certain consumer cooperatives may also qualify as an association.

Associations based primarily on a client-customer relationship do not meet associational common bond requirements. Health clubs are an example of a group not meeting associational common bond requirements, including YMCAs. However, having an incidental client-customer relationship does not preclude an associational charter as long as the associational common bond requirements are met. The particular details of a group’s structure, scope and degree of its activities, and other factors surrounding its operation will determine if its relationship with its members is primarily or incidentally a client-customer relationship. For example, an association that offers insurance, even as a condition of membership, may qualify as a valid associational common bond, provided

that the client-customer relationship is still incidental in relation to the association's activities and overall circumstances.

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