

Supervisory Letter

NCUA | Office of Examination & Insurance
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July 6, 2015

TO: All Field Staff

SUBJECT: Associational Common Bond Updates

This supervisory letter provides information about changes to the associational common bond for federal credit unions (FCUs) and establishes a consistent framework for how field staff should address concerns about an FCU's field of membership (FOM).

The guidance in this document applies to the supervision of FCUs. If you have any questions on the following material, please direct them to your immediate supervisor or regional management.

I. Background

On April 30, 2015, the NCUA Board amended the associational common bond provisions of the chartering and field of membership requirements (NCUA Rules and Regulations Part 701, [Appendix B – Chartering and Field of Membership Manual](#)). The amended rule takes effect July 6, 2015.

The changes provide regulatory relief by automatically qualifying 12 associational groups as valid associations. In addition, the amended rule clarifies NCUA's requirements for an associational common bond to help FCUs understand which groups and associations are eligible for FOM inclusion.

NCUA's Office of Consumer Protection (OCP) oversees credit union chartering, charter conversions, bylaw amendments, and field of membership expansions, including applications to include an association in an FCU's FOM.

Supervisory letters are official agency examination policy. These letters communicate guidance to NCUA field staff on regulations and exam procedures. Each supervisory letter focuses on a specific topic, providing background information and outlining any related regulatory and statutory requirements. Supervisory letters may also require field staff to perform certain procedures during an examination; in these cases, the letter will provide instructions to help field staff implement the procedures. Supervisory letters are intended to provide a framework for more consistent application of staff judgment with respect to conclusions about a credit union's financial and operational condition, and related CAMEL and risk ratings. These letters also provide a consistent approach for evaluating the adequacy of a credit union's relevant risk-management processes. Supervisory criteria detailed in a supervisory letter are not strict requirements, unless noted as required by law or regulation. The supervisory criteria contained in these letters are used by field staff to evaluate a credit union's condition based on the preponderance of relevant factors. Generally, supervisory letters are shared with the public as an attachment to a Letter to Credit Unions.

A. What is an Associational Federal Credit Union?

A single associational FCU is a credit union that may include in its FOM, regardless of location, all members and employees of a recognized association.¹ Part III.A.3—Sample Single Associational Common Bonds of the [Chartering and Field of Membership Manual](#) includes examples of acceptable and unacceptable associational common bonds. Separately chartered associational groups can establish a single common bond relationship if they are integrally related and share common goals and purposes.

A multiple common bond FCU may include any combination of occupational or associational groups in its FOM. Each individual group must have its own satisfactory occupational or associational common bond. If a multiple common bond FCU wishes to add a new associational group, the group must meet the common bond requirements of the amended rule.²

B. What Has Changed in the Amended Rule?

The amended rule provides regulatory relief to FCUs by streamlining the process for adding certain associations or groups to their FOMs. Specifically, the rule lists [12 groups that are automatically determined to be valid associations](#). These groups are no longer required to meet the “totality of the circumstances test” before joining an FCU’s FOM.

The amended rule also improves clarity about the requirements that associations or groups must meet before they may be added to an FCU’s FOM.

1. All associations must meet a threshold requirement, by which OCP will determine if the association or group was created primarily for the purpose of expanding the FCU’s FOM.
2. A new corporate separateness element has been added to the totality of the circumstances test. This means the FCU’s and the group’s respective business transactions, accounts, and corporate records are not intermingled.

The threshold requirement and totality of the circumstances test are described in detail in the [Chartering and Field of Membership Manual](#).

¹ Section 109(b) of the Federal Credit Union Act limits federal credit union membership to three basic types – single common bond, multiple common bond, and community. A single common bond credit union may consist of persons related by their *occupation*, (i.e., their place of employment or trade, industry, or profession), or related by their *association* (i.e., place of worship or affiliations).

² Any association added prior to the effective date of amended rule is grandfathered. However, if the membership eligibility requirements of an association change, the multiple common bond FCU is responsible for ensuring the group continues to meet the associational common bond requirements by obtaining OCP’s approval to continue serving the group.

II. Exam Procedures

Field staff may be involved in an FOM review under three scenarios:

A. Consulting with OCP during the FOM expansion approval process.

When an FCU applies to OCP to expand its FOM to include any group, there are a number of regulatory considerations. OCP may contact field staff for assistance in evaluating the request before approving an association or group.

B. Evaluating the business and marketing plans of community-chartered FCUs.

NCUA Instruction 5000.20 (Rev. 6) *Examination Scope* (January 26, 2015) requires that, for three years after the approval of a community charter, field staff must review an FCU's compliance with its community charter expansion business plan. This is required for all FCUs with a community FOM approved on or after July 26, 2010.

C. During the course of an examination, field staff encounter red flags pertaining to an FCU's FOM.

The following red flags may indicate weak controls over an FCU's FOM. (This list includes some of the most common red flags; it is not all-inclusive.)

- Advertising in local media or on the Internet suggests "anyone can join."
- The customary safety and soundness review of loans reveals unusual patterns about how borrowers became members.
- The FCU recently established, or plans to establish and subsidize, a new organization, such as a foundation, for the primary purpose of attracting new members.
- The FCU has become very reliant on fee revenue generated by a new program(s), such as indirect lending or a mortgage brokerage service, and the majority of new members come through this program.
- NCUA receives a compelling allegation(s) that the credit union is engaged in questionable membership and advertising practices.

If field staff encounter one or more of these red flags in the course of an examination, perform the following exam steps:

1. Review the FCU's FOM and identify any new groups or associations that have been added since the last examination.
2. Determine if all new groups and associations included in the FOM have been approved by OCP.

- a. If all groups and associations have been approved by OCP:
- Determine if front-line employees fully understand membership requirements.
 - Review the FCU's process for verifying eligibility when approving new members.³
 - Determine if management provides training to ensure that membership verification procedures are performed.

If shortcomings in any of these areas are identified, refer the matter to your supervisor, who will refer all FOM concerns to OCP through the regional office.

- b. If field staff discover that one or more groups or associations in the FOM have not been approved by OCP:
- Document these concerns and notify your supervisor and credit union management.
 - Supervisors will refer all FOM concerns to OCP through the regional office.
 - OCP staff will make the final determination about the FCU's compliance with the FOM requirements.
 - OCP will notify the regional office of its determination and take direct action with the FCU when necessary.

IMPORTANT: Concerns with an FCU's FOM can also indicate risks to the credit union's safety and soundness. Field staff have the authority and responsibility to address any activity that gives rise to safety and soundness concerns during an examination. However, field staff may not take action to require a credit union to change its FOM or to cease adding members to its FOM; this authority lies solely with OCP. All concerns with FOM violations should be referred to OCP.

³ Field staff should not take exception to simultaneous enrollment to an association and the FCU, provided the new member consents to joining the association.

D. Additional Relevant Guidance

Field staff may review the following resources for additional information:

- Federal Credit Union Act Section 109(b)
 - NCUA Rules and Regulations Part 701, [Appendix B – Chartering and Field of Membership Manual](#)
 - NCUA Rules and Regulations Part 701, Appendix B – Chartering and Field of Membership Manual, [Amendment effective July 6, 2015](#)
 - NCUA Instruction 5000.20 (Rev. 6) *Examination Scope* (January 26, 2015)
 - NCUA Letter to Federal Credit Unions (13-FCU-03) [Potential Violations of Common Bond Advertising Requirements](#) (September 2013)
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If you have any questions on the material in this letter, please direct them to your immediate supervisor or regional management.

Sincerely,

/s/

Larry Fazio
Director
Office of Examination & Insurance