
Re-Proposed Rule to Exclude Urban Core Areas from Credit Union Service Areas

Executive Summary

The National Credit Union Administration is proposing to re-adopt a provision that would allow federal credit unions (FCUs) to exclude urban, core areas from their service areas (known as fields of membership, or FOM). The NCUA is soliciting public comments on how the exclusion of the core area service requirement may affect an FCU's ability to serve low- and moderate-income (LMI) segments of communities.

Background

Community-based FCUs are required to only serve the consumers within their FOM, which are comprised of "well-defined, local communities" (WDLC) that have geographic boundaries and lines. There are three main types of geographical boundary lines for FOMs.

1. **Single political jurisdiction** — FOM boundaries drawn based on city or county lines.
2. **Core-based statistical areas (CBSA)** — Sometimes also referred to as metropolitan statistical areas, or MSAs, these boundary lines include wide swaths of geographical areas comprising several counties, often named after the largest urban core (e.g., the St. Louis MSA).
3. **Combined statistical areas (CSA)** — These are the largest geographical areas, comprising several CBSAs or MSAs.

NCUA previously allowed FCUs to draw boundaries and only serve portions of a CBSA/MSA, but it always required the boundary lines to include the urban cores. In 2016, however, the NCUA finalized a rule that removed the required inclusion of urban cores from an FCU's service area, and FCUs are now permitted to exclude urban cores from their FOM service area.

In response to a recent lawsuit, the D.C. Court of Appeals acknowledged that NCUA's recent rule change creates the potential for FCUs to redline their FOM boundaries and remanded the issue to NCUA to explain how it would prevent FCUs from redlining.

As such, the NCUA is (1) providing further explanation and support for its elimination of the requirement to serve the CBSA's core area as provided for in a 2016 rulemaking, and (2) proposing to clarify existing requirements and add an explicit provision to its rules to address concerns about potential discrimination in the FOM selection for CSAs and CBSAs.

In soliciting stakeholder feedback, the NCUA is now seeking comment on how the exclusion of the core area service requirement may affect an FCU's ability to serve LMI segments of communities.

Section-by-Section Summary

NCUA offers additional reasons to exclude urban core areas from service.

NCUA states that the primary purpose of including urban cores in an FOM boundary was to acknowledge that the urban core is the typical focal point for common interests and interaction among residents. Yet, NCUA explains that the Federal Credit Union Act does not mandate any such requirement for a community.

NCUA explains that the 2016 rule's elimination of the urban core area service requirement was intended to provide additional flexibility to community-based FCUs, thereby enabling FCUs to provide financial services to LMI segments outside the urban core. NCUA posits that this position reflects its contention that some areas outside urban core areas have more LMI consumers than inside the urban core. NCUA also tries to justify its decision by stating that cores are relatively populous, and that "retaining the core area service requirement would in many instances make it more difficult for an FCU applicant to serve areas beyond the core."

In response to those opposing the proposal, the NCUA Board cited the agency's supervisory process and its ability to follow up on member complaints of discrimination affecting LMI and underserved populations. NCUA also contends that a major component of the Community Reinvestment Act, as applied to banks, is supervising the branching decisions of applicants for bank charters. In contrast, Congress has not found it necessary to direct the NCUA to supervise FCUs' branching decisions

NCUA also argues that the potential for discrimination by an FCU is lessened because, like other financial institutions, FCUs are subject to consumer protection statutes, such as the Equal Credit Opportunity Act, and that the member-based, cooperative nature of FCU ownership and management is an organic incentive for an FCU to serve its LMI member-owners in a way that does not exist in a for-profit bank's relationship with its customers.

NCUA proposes to require applicants to explain how their FOM boundaries will serve low-to-moderate-income segments.

The NCUA proposes to clarify its authority to reject applications if the agency determines that the FCU's proposal is based on discriminatory intent or a desire to exclude LMI individuals. The FCU would have to demonstrate that its choice of FOM, including choosing not to serve the urban core, is based on sound legal and business judgment and not an attempt to redline or discriminate on an illegal basis. The NCUA is also proposing to make explicit that an applicant for a community FOM must address how it will serve LMI segments of a community to ensure that the FCU applicant will not exclude service to LMI populations.

The NCUA Board solicits public comments generally on (1) the issues concerning the urban core area service requirement, and (2) how the exclusion of the core area service requirement may affect an FCU's ability to serve low- and moderate-income segments of communities.