American Bankers Association
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Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

re: National Credit Union Administration; Sample Income Data to Meet the Low-Income Definition; 12 C.F.R. Part 701; 75 Federal Register 80364, December 22, 2010

Dear Mary Rupp:

The National Credit Union Administration (NCUA) Board is proposing to amend 12 CFR Section 701.34 for federal credit unions (FCU) attempting to qualify for the low-income designation. FCUs that attain the low-income designation receive significant benefits – such as the ability to accept non-member deposits, to participate in the Community Development Revolving Loan Program, to offer secondary capital accounts, and to qualify for exception from the aggregate loan limit for member business loans. The American Bankers Association[1] (ABA) is concerned that the proposed changes may allow some FCUs to game the system, thus, receiving a low-income designation and the benefits associated with low-income designation status when not warranted.

Background

Under the current process, an FCU can obtain a low-income designation during the examination process by submitting data through automated geo-coding software. As an alternative to the geo-coding software, FCUs can show that over 50 percent of their members qualify as low-income[2] through income data collected from loan applications or by conducting a survey of members and their income data.

According to NCUA, only one credit union applied for the designation using the alternative method after failing to qualify on the basis of NCUA's geo-coding software. The NCUA Board believes the lack of credit unions using the alternative method is because credit unions may find it difficult to meet the requirement of collecting actual income data establishing the low-income

[1] The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than $165 million in assets. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities.

[2] Low-income members are those members who earn 80% or less than the median household income or median earnings for individuals for the metropolitan area where they live or the national metropolitan area, whichever is greater. For members living outside a metropolitan area, low-income members are those members who earn 80% or less than the median household income or median earnings for individuals, for the statewide or national, non-metropolitan area, whichever is greater.

status of at least 50 percent plus one of their members. Additionally, members are reluctant to participate in the surveys due to the sensitive nature of income data, and many credit unions have not made loans to at least 50 percent of their membership.

In response, the NCUA has issued a proposed rule which modifies the alternative method by requiring FCUs to collect data from a smaller pool of members. But the data must be a statistically valid sample of member income data collected from loan applications or through a valid sample collected in a survey.

The proposed rule defines the parameters for acceptable forms of data. Furthermore, the rule would require the random sample be representative of the membership, sufficient in both number and scope on which to base conclusions, and have a minimal confidence level of 95 percent and a confidence interval of 5 percent. FCUs will provide NCUA with a narrative and supporting material addressing—

- Representativeness of membership;
- Income definition and timing (For example, if the sample is from loan files, income data cannot be over 5 years old);
- Minimum sample sizes;
- Method of the sampling; and
- Data set associated with the sample.

ABA's Position

First, ABA is deeply troubled by NCUA's use of the geo-coding software to determine whether a credit union qualifies for the low-income designation. NCUA links member address information to publicly available information from the U.S. Census Bureau to estimate member earnings. Instead of measuring the income of the member, NCUA is measuring the income of the geographic area where the member resides. This could allow an FCU to receive a low-income designation, when the actual membership profile is that of higher income individuals. Therefore, ABA recommends that NCUA should actually require FCUs to gather data on the income of the members and discontinue its use of its geo-coding software.

Second, turning to the specific proposal set forth by NCUA, ABA has several areas of concern that need to be addressed:

- A higher confidence level is needed.
- Samples should be of the whole membership, not just borrowers.
- Five years is too long for loan file income data.
- Data Evaluation needs to be transparent.

A Higher Confidence Level Is Needed

In the proposal as an alternative to the geo-coding software, FCUs are required to use a random sampling of member income data from loan files or a member survey. Credit unions are required to gather a random sample that is "sufficient in both number and scope on which to base conclusions, and have a minimal confidence level of 95% and a confidence interval of 5%". ABA believes the confidence level of 95 percent is too low and suggests that NCUA increase the minimum confidence level to 99 percent or else lower the confidence interval to 1 percent.

Choosing a higher confidence level or lower confidence interval would make it harder for non-low income credit unions to be inappropriately recognized as a low income credit union.[3] Given the benefits associated with receiving a low-income designation, ABA believes it is important to ensure that these benefits flow to deserving credit unions.

Samples Should Be of Whole Membership, Not Just Borrowers

ABA recommends that the sample should be based upon the whole membership, not just income information from loan applications. According to the NCUA, the borrower to member ratio for FCUs was 50.56 percent as of the end of the third quarter of 2010. This means that on average a sample that is drawn from loan applications would exclude roughly half of the credit union members. Moreover, many FCUs report lower borrower to member ratios. For example, 3,417 FCUs have a borrower to member ratio below 50 percent and 906 FCUs reported a borrower to member ratio below 25 percent. Excluding non-borrowers from the sample could potentially bias the survey results, as it may not be representative of the whole membership. Non-borrowers could be demographically different from borrowers.

Five Years Is Too Long for Loan File Income Data

If NCUA is going to allow sampling from loan applications, ABA recommends a shorter time period than 5 years for income data. The more contemporaneous the data, the better. For example, assume a loan application was selected that was five-years old and the member had received raises of 3 percent per year over the following four years; the member's income would be almost 12.5 percent higher than the income reported in the loan file. Therefore, the older the loan file, the more out of date the data and unreliable for the purpose of identifying low income populations. So, ABA believes that the income data should be no more than two years old.

Data Evaluation Needs to Be Transparent

In the proposal, the evaluation process will consist of ***only*** NCUA staff members reviewing the credit union submissions. This aspect troubles ABA since it does little to promote transparency in the process. As stated earlier, the low-income designation provides FCUs access to significant benefits, such as a government technical assistance program. With access to taxpayer funded

[3] This reduces the probability of failing to reject the null hypothesis when the null hypothesis is false.

programs and these increased powers, the public should be able to review the applicant's submissions. Therefore, ABA recommends that NCUA incorporate into the rule a method of providing access to the non-sensitive aspects of the application materials for public viewership.

In conclusion, ABA appreciates the opportunity to comment on NCUA's proposed rule on "Sampling Income Data to Meet the Low-Income Definition". Although ABA supports improvements in the application process for deserving credit unions, we have concerns over this alternative standard. ABA hopes that NCUA addresses these concerns that we have raised.

Sincerely,

Keith J. Leggett
Vice President and Senior Economist