

OGC/CJL:bhs
SSIC 6100
01-1110

TO:

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: [] Federal Credit Unions – Field of Membership and Nonstandard Bylaw Amendments

DATE: December 3, 2001

You have requested comment on field of membership (FOM) and bylaw amendments submitted for approval by seven [] federal credit unions located in Region V. The first proposal removes surviving spouses that remarry from the credit union's FOM. The second proposal adds persons terminated as disabled or terminated under []'s Illness Benefits Expired Provisions (ILBE) and defines the meaning of disability and ILBE in a proposed bylaw amendment. The third proposal would include "pensioners and annuitants" in the charter and define the phrase in the bylaws so as to permit retirees from any of the employers within the FOMs of all seven FCUs to join any of FCUs. We have no objection to the first proposal but believe that the other two are impermissible.

The credit unions want to amend a provision in their FOMs to limit membership to "surviving spouses of persons who died while within the field of membership . . . until such time as the surviving spouse remarries." The NCUA Field of Membership and Chartering Manual ("Chartering Manual") permits a federal credit union (FCU) to include spouses of persons who died while in the FOM because of their close relationship to the common bond group. Chartering Manual, p. 2-45. An FCU may place additional restrictions on the types of persons identified in the Chartering Manual as eligible for membership. We have no legal objection to the credit unions adopting this amendment.

The credit unions want to add individuals to their FOMs who were in their FOMs through an occupational common bond but lost their jobs due to disability. We agree with your determination that these individuals are no longer in the occupational common bond group upon separation from their employer. You note that these former employees do not receive any compensation from []. The Chartering Manual does not recognize former employees, terminated because of a disability, as having a close relationship to a common bond group. Id.

While all the FOMs of the [] credit unions include employees of the same, numerous [] companies and affiliates, each FOM is limited to the employees of those companies employed by a particular regional office. The third proposal includes "pensioners or annuitants" of all the [] companies and affiliates in the FOM without the limitation that they be former employees of a particular regional office. The purpose of the proposal is to allow retirees of all the companies to join any of the seven FCUs, recognizing that retirees may change their residence and another of the seven FCUs may be more convenient.

The Chartering Manual states that "persons retired as pensioners or annuitants from the above employment" are persons eligible for membership. Id. Retirees are only eligible for membership in an FCU because of their close relationship to a group in the FCU's FOM with an occupational common bond based on employment with a particular employer. This provision in the Chartering Manual does not contemplate allowing retirees of employers, whose active employees are not otherwise eligible for membership, into an

FCU's FOM. Retirees of [] companies that do not have occupational groups in a credit union's FOM are not eligible for membership simply because they retired from an affiliated company and reside in the credit union's operational area.

Finally, we note that, although the seven [] federal credit unions may have identical bylaws, the board of directors of each credit union must vote to approve any bylaw amendments.

cc: All Regional Directors