

TITLE 12 - BANKS AND BANKING
CHAPTER VII - NATIONAL CREDIT UNION ADMINISTRATION

PART 701 - ORGANIZATION AND OPERATIONS
OF FEDERAL CREDIT UNIONS

Interpretive Ruling - Share Accounts

AGENCY: National Credit Union Administration ACTION: Interpretation of General Applicability.

SUMMARY: The purpose of this interpretive ruling is to confirm (1) that share draft accounts must qualify as a regular share account and (2) the dividend rate paid on regular share accounts may vary.

EFFECTIVE DATE: July 1, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C., 20456.

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SUPPLEMENTARY INFORMATION: On June 5, 1979, this Administration published a final rule, Share Accounts and Share Certificate Accounts (final rule), effective July 1, 1979 (44 FR 32202): Pursuant to the final rule, Federal credit unions are permitted greater flexibility in designing share accounts to meet the needs of their membership. This flexibility is in contrast to the previously existing rule on share accounts which delineated with greater specificity the nature and type of share accounts that could be offered by Federal credit unions. Since the final rule modifies the previous framework within which Federal credit unions were permitted to operate in creating share accounts, new concerns have surfaced in regard to the treatment that must now be accorded share draft accounts.

Under the previous rule (rule in effect until July 1, 1979) if a Federal credit union established a separate account for share draft purposes, that share draft account was required to be identical in every respect to the credit union's regular share account. This requirement did not present undue operational difficulties because the structure of regular share accounts could not be varied. That is, there was only one regular share account and the share draft account was established solely for administrative and accounting purposes. The final rule, however, expands the posture of regular share accounts. Federal credit unions will now have the latitude to design varying types of accounts that will qualify as regular share accounts. Because of this change, and since share draft accounts must qualify as regular share accounts, this Administration has determined that an interpretive ruling is necessary to clarify the issues raised by the final rule.

INTERPRETATION

IRPS No. 79-2

Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes Federal credit unions to issue shares at varying dividend rates and share certificates at varying dividend rates and maturities. Pursuant to that section, the National Credit Union Administration promulgated, effective January 1, 1978, section 701.35 of its Rules and Regulations, establishing conditions for the issuance of share accounts and share certificate accounts. (12 C.F.R. 701.35). Section 701.35 is now further amended, effective July 1, 1979.

As a result of the amendments to section 701.35, issues have been raised concerning the proper treatment of regular share accounts that are accessed by share drafts. Under the rule prior to July 1, 1979, a share draft account could not vary in structure, dividend rate or method for computing the dividend rate from the regular share account. Section 701.35, as amended, does not require the same result.

Federal credit unions are required to offer at least one type of share account that does not require the holder to maintain a balance greater than the par value of a share, does not require a notice of intent to withdraw, except as may be imposed in accordance with the Federal Credit Union Bylaws, but that must receive a dividend. (12 C.F.R. 701.35(b)(ii)). This type of share account is defined as a "regular share account." (12 C.F.R. 701.35(a)(1)(ii)). By definition, a share draft account is "any regular share account from which the Federal credit union has agreed that shares may be withdrawn by means of a share draft or other order." (12 C.F.R. 701.34(a)(4)). Share draft accounts, therefore, are, by definition, regular share accounts.

Section 701.35 does not restrict the number of regular share accounts that may be offered by Federal credit unions. In fact, the regulatory history of the rule on share accounts supports the proposition that a Federal credit union has considerable latitude in designing the types of accounts best suited for its member. Since more than one regular share account can be offered, a share draft account may be established as a separate regular share account in addition to a regular share account not accessed by a draft. It is emphasized, however, that limitations, such as maximum rate, for example, applicable to all share accounts and the specific requirements of regular share accounts must be met and maintained.

The board of directors of a Federal credit union may, by resolution, establish share accounts with varying dividend rates (12 C.F.R. 701.35(b)). A review of the regulatory history and the rule itself does not suggest that every type of share account must receive the same dividend rate. Accordingly, Federal credit unions are authorized to vary the dividend rate on different regular share accounts, including share draft accounts, provided the rates are established and paid in a nondiscriminatory manner. However, all accounts within a particular class, that is, for example, all share draft accounts, must receive identical treatment.

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