

January 12, 2009

Ronald L. Burniske, President & CEO
Chartway Federal Credit Union
160 Newtown Road
Virginia Beach, VA 23462-2415

Re: Service Facility Requirement for Multiple Common Bond Federal Credit Unions.

Dear Mr. Burniske:

Chairman Fryzel has asked me to reply to your letter requesting the National Credit Union Administration (NCUA) Board consider modifying NCUA's regulations to include a credit union's Internet website in the definition of service facility for multiple common bond federal credit unions. We appreciate your interest in this matter and have considered your request. The Federal Credit Union Act and NCUA's regulations contain a general requirement that a multiple common bond credit union adding a new group to its field of membership must be "within reasonable proximity to the location of the group." The credit union meets the requirement if it has a service facility within reasonable proximity of the group and an Internet website is not a service facility.

Under the Federal Credit Union Act, since 1998, when a multiple common bond credit union seeks to serve an additional group and "the formation of a separate credit union by the group is not practicable or consistent," the NCUA Board must require:

the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

12 U.S.C. § 1759(f)(1)(B).

There is a discussion of the term "reasonable proximity to the location of the group" in the House Committee on Banking and Financial Services Report 105-472, submitted by Representative Leach to accompany H.R. 1151, the Credit Union Membership Access Act of 1998. The Report stated:

If the NCUA determines that a group cannot form a viable credit union on its own, then the NCUA is required to place the group with a credit union within reasonable proximity of the group. This local preference is qualified by safety and soundness principles. The Committee strongly believes credit union members who live, work and interact in the same geographic area are more likely to have more of a meaningful affinity and common bond than those who do not. The NCUA's regulations shall strongly favor

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placing groups with local credit unions and document in writing their compliance with the local preference requirement.

H.R. Rep. No. 105-472, at 20 (1998).

NCUA's Chartering and Field of Membership Manual (Chartering Manual) implements this statutory provision by requiring a group to be "within reasonable proximity" of a service facility of the multiple common bond credit union wishing to add the group to its field of membership. Chartering Manual, Interpretive Ruling and Policy Statement (IRPS) 08-2, 73 Fed. Reg. 73,392, 73,408 (Dec. 2, 2008). NCUA's Chartering Manual defines a service facility as:

a place where shares are accepted for members' accounts, loan applications are accepted or loans are disbursed. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned electronic facility that meets, at a minimum, these requirements. A service facility also includes a shared branch or a shared branch network if either: (1) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or (2) the service facility is local to the credit union and the credit union is an authorized participant in the service center. This definition does not include the credit union's Internet website.

Id. The current Chartering Manual definition of service facility provides multiple common bond credit unions with several options for the types of facilities it can use to serve its occupational and associational groups. A credit union's Internet website lacks a physical presence so cannot meet the statutory requirement to be within reasonable proximity of the groups.

Feel free to contact me if you have any further questions about this matter.

Sincerely,

/S/

Robert M. Fenner
General Counsel

cc: Jane Walters, Region II Director

GC/RMM
08-1218