

GC/MM:sg

SSIC 3700

91-1120

TO: []

FROM: Hattie M. Ulan, Associate General Counsel

SUBJ: [] Nonstandard Bylaw Amendments

(Your November 7,1991, Memo)

DATE: December 5, 1991

You have asked for our comments on request for several nonstandard bylaw amendments concerning election procedures. We have no legal objection to any of the requested nonstandard bylaw amendments.

ANALYSIS

The FCU wishes to allow mail ballots in addition to voting at the credit union office and the annual meeting to increase members' participation in the electoral process. To further this goal of increasing member participation, as well as reducing operating costs, the FCU proposes several changes in time periods relating to voting at the annual meeting. Specifically, the FCU wishes to change the time for mailing notice of the annual meeting to 60 days (Article V, Section 2), and require that the secretary notify the members of the right to nominate by petition 60 days before the meeting as well as requiring nominations by petition be filed with the FCU 26 days before the annual meeting (Article VI, Section 1). The amendments would also require ballots be mailed to the members 21 days prior to the meeting (Article VI, Section 8(b)) and that ballot boxes be placed at the FCU office three days prior to the meeting (Article VI, Section 2).

We have no objection to any of the provisions discussed in the preceding paragraph. Neither the FCU Act nor NCUA's Regulations sets any specific time periods for election procedures. The Standard Bylaw Amendments (p.29) require only that notice of the annual meeting be mailed to the members at least 7 days before the meeting. Seven days is a minimum requirement, and nothing precludes an FCU from lengthening the time period. With regard to the placing of the ballot boxes the Standard Bylaw Amendments (p.33) state: "The placement of ballot boxes (locations) and time periods (the hours of the day or number of days that ballot boxes or voting machines will be available for voting) can be adjusted to meet the needs of your credit union. The only requirement on setting time periods is that no voting can take place after the date of the annual meeting." With regard to the amendments concerning nomination by petition and mailing the ballots, the Standard Bylaw Amendments are silent. We also note that none of the requested changes in time periods would impair the rights or hamper the participation of individuals seeking election, or members wishing to exercise their voting privileges.

The FCU also proposes a change to Article VI, Section 8(c) to provide that candidates for director positions be listed on the ballots randomly (by drawing names from a hat for the order) rather than listing the names in alphabetical order. The FCU believes that a random selection is a fairer method for listing the candidates. We note that candidates for other offices continue to be listed alphabetically. We have no legal objection to this amendment.

We defer to your judgment as to whether the proposed amendments should be allowed.