

GC/MFR:bhs

SSIC 6100

94-1102

[ ]

FROM: Richard S. Schulman, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendment - [ ]

(Your October 4, 1994, Memorandum)

DATE: November 4, 1994

You have asked for our comments on [ ] request for a nonstandard bylaw amendment to Article VI, Section 1 of its bylaws. By letter dated October 4, 1994, you denied the portion of the request that would have eliminated the 500 member ceiling on signatures required for nomination by petition as being contrary to agency policy. We concur with your interpretation and will limit our review to the remaining

As you have noted, the changes requested are either "nonconsequential or have been previously approved." The proposed amendment would not violate the FCU Act or the Regulations. We do have some concern with the requirement that petitioners and the agents be independent of any other petitioner and/or agent.' Although we have approved similar wording in the past, this requirement raises several concerns. First, we have repeatedly stated that as long as an individual is a member of the FCU and has not been convicted of a crime involving dishonesty or breach of trust, he/she is eligible for election to the board of directors. Second, it is unclear what "independent as used in the amendment means. Further, as suggested, how would the credit union be able to determine if petitioners and their agents are truly independent each other. We would suggest removing this provision from the nonstandard bylaw amendment.

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' The proposed language is, "A petitioner, including agents who may be soliciting on his/her behalf, desires to seek nominations, must be independent of any other petitioner and his/her agents, and any nominating committee nominee."