

GC/MFR:bhs

SSIC 6100

95-0446

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FROM: Richard S. Schulman, Associate General

SUBJ: Standard Bylaw Amendments - Lending to Churches

(Your April 17,1995, Memorandum)

DATE: May 15, 1995

You have asked us to comment on an FCU making a loan to a church. We concur with your interpretation that a church is considered an association. Pursuant to Article XII, Section 1 of the FCU Standard Bylaw Amendments, if the loan is in excess of the church's shares, the loan must be made jointly to a majority of the church's members. This Bylaw Amendment was enacted in conjunction with §701.21 (h)(2)(ii)(B) of NCUA's Member Business Loan Rule. The rule evolved from a total prohibition on loans to nonnatural persons to the current rule which permits loans to nonnatural persons which are guaranteed by the principals. Article XII, Section 1 of the Bylaw Amendments permits loans to nonnatural persons only when the loan is either co-signed by the principals or, in the case of an association, with the co-signatures of a majority of the members. The rationale behind the requirement is that there must be personal accountability for loans of this nature.

Based on the exemption in §701.21 (h)(2)(ii)(b) for loans to not-for-profit organizations, we have no legal objection to a nonstandard bylaw amendment that waives the majority of signatures requirement for a not-for-profit organization. See attached November 24, 1993, Memo from Hattie M. Ulan, AGC to []. These nonstandard bylaw amendments should be reviewed by the Regions on a case-by-case basis to assure that safety and soundness concerns are addressed.