

OGC/CJL:bhs  
SSIC 6100  
01-1113

TO:

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: [ ] Federal Credit Union - Nonstandard Bylaw Amendment

DATE: November 27, 2001

You have requested comment on a bylaw amendment submitted for approval by [ ] Federal Credit Union that would allow it to provide election notices and ballots to members in writing or through electronic mail (e-mail) or a combination of both. We have no legal objections to the amendment.

The FCU wants to amend FCU Bylaws, Article V, Option A4, which permits elections through electronic devices or mail ballot, by giving the FCU the option to deliver election notices and ballots through the mail or electronically. Option A4 provides for a written notice to members before the election that tells members about the nominees selected by the nominating committee and how to submit a nomination petition. This Option also requires an FCU to mail a printed ballot or notice of ballot to members when two or more candidates compete for a seat. The FCU wants to use e-mail under both circumstances “to notify members who have opted to receive notices or statements electronically.”

We have no objection to FCUs sending election notices and ballots to members via e-mail. Option A4 specifically authorizes elections through electronic devices, including e-mail. We believe that an FCU may transmit the required election notices and ballots either through regular mail or e-mail. We note that, regardless of whether the FCU sends notices about electronic elections through the mail or through e-mail, the FCU must include alternative voting instructions for members unable to vote on the FCU's electronic system. FCU Bylaws, Art. V, Option A4, Sec. 2(c)(2).

cc: All Regional Directors