

TO:

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendment, [ ] FCU

DATE: March 8, 2004

You have asked for our concurrence on a nonstandard bylaw amendment to [ ] Federal Credit Union's (FCU's) bylaws that would allow the FCU to limit the number of directors associated with the FCU's labor union. We have no objection to the FCU's proposed bylaw.

The proposed bylaw adds a provision to the FCU's bylaws that limits to three the number of directors that can have a direct association with the labor union representing credit union employees. "Direct association" is defined as "membership, board member, management, job steward, or other active relationship." The purpose of the amendment is to ensure that the board has a quorum to deliberate on issues involving the union. As explained in OGC Legal Opinion 00-0825, dated September 8, 2000, because the amendment does not serve as an absolute bar, but would allow an individual, if elected, to sever the association with the union and remain on the board, it is permissible.

We note that when first presented with this proposal we expressed some reservations about including "membership" within the definition of "direct association." We have reviewed [ ]'s legal opinion to the FCU and are comfortable with her analysis that this practice is permissible.

The FCU has asked to place this amendment in Article VII of its bylaws. We suggest placing it in Article VI at the end of Section 2. This provision places limits on how many board members and family members may be paid employees of the credit union and is somewhat analogous to the proposed limitation.