

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 C.F.R. Chapter VII

#### Interpretive Ruling and Policy Statement 84-1

#### Membership in Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA)

ACTION: Interpretive Ruling and Policy Statement (IRPS 84-1)

SUMMARY: This IRPS addresses field of membership policy for Federal credit unions (FCU's). It updates two prior IRPS (82-3 and 83-2), includes NCUA's new policy on granting FCU membership to senior citizens and retirees and sets forth the Standard FCU Bylaws which affect field of membership. Field of membership policy is based on Section 109 of the FCU Act, 12 U.S.C. §109, which states that FCU membership "shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community or rural district."

EFFECTIVE DATE: November 15, 1984

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SUPPLEMENTARY INFORMATION: In September of 1983, the National Credit Union Administration Board (Board) directed that a comprehensive study of the Board's deregulation of the field of membership policy be conducted. As a result of the study, the Board concluded that a revised IRPS should be developed and published to all Federal credit unions consisting of a concise statement of the recent changes in field of membership policy. Section 109 of the FCU Act, 12 U.S.C. §1759, limits FCU membership to "groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community or rural district." Prior to April 1982, Section 109 was interpreted by NCUA narrowly. The deregulation of field of membership policy essentially began in April 1982. The NCUA Board now interprets the FCU Act more broadly regarding field of membership. The primary intent of the newly expanded field of membership policy and the essential basis for all changes in the policy since April 1982 is to provide credit union service to new groups -- to people who do not presently have credit union service available to them.

This new policy statement (IRPS 84-1) combines the two previous policy statements, IRPS 82-3 and IRPS 83-2, sets out modifications which have been made since their publication, incorporates several unwritten policies which address field of membership, and sets forth the new policy on service to senior citizens and retirees. Several of the recommendations made in the field of membership policy study are also incorporated in the new policy statement. Two bylaw provisions which affect field of membership are also addressed in the new IRPS. IRPS 82-3 and IRPS 83-2 are cancelled as of the effective date of IRPS 84-1. The Chartering and Organizing Manual for Federal Credit Unions (Manual), which was

revised in 1980, is superseded to the extent that it conflicts with this IRPS. All other portions of the Manual remain in effect. The Manual is being updated to reflect the current field of membership policy. It will be published in the near future.

IRPS 84-1 is divided into four major sections. The first section is entitled Purchase of Loans of Liquidating Credit Unions Under Section 107(14). This section appeared as part of IRPS 82-3. The Board's policy has not changed in this area. FCU's may offer membership services to members of liquidating credit unions whose loans the FCU has purchased pursuant to Section 107(14) of the FCU Act, 12 U.S.C. §1757(14). IRPS 82-3 also addressed FCU purchase of notes of liquidating credit unions for investment value pursuant to Section 107(13) of the FCU Act. This section is deleted from the new IRPS since it does not concern field of membership policy. FCU's retain the authority to purchase notes of liquidating credit unions pursuant to Section 107(13) of the FCU Act. The aggregate balances of such notes may not exceed five percent of the purchasing credit union's total shares and undivided earnings according to Section 107(13). This limitation does not apply to the purchase of loans when membership services are offered under Section 107(14).

The second section of the IRPS is entitled Bylaws Affecting Field of Membership. The "once a member, always a member" Bylaw (Article II, Section 5 of Standard Federal Credit Union Bylaws) has been in effect since 1968 and has not been changed. With this Bylaw, if an FCU board of directors so resolves, members can retain affiliation with their FCU even though they are no longer within the field of membership. The Bylaw defining immediate families (Article XVIII, Section 2(a) of the Standard Federal Credit Union Bylaws) was deregulated in 1983. FCU's that wish to serve immediate family members must first ascertain that the field of membership provision of the FCU's charter includes family members. If family members are not included, the FCU may apply to the appropriate regional director for a charter amendment. The FCU then has three basic choices in defining family members. 1. The FCU may utilize Article XVIII, Section 2(a) of the standard form of FCU bylaws, which defines members of their immediate families to mean "grandparents, parents, husband, wife, children, grandchildren, brothers and sisters living under the same roof and in the same household." 2. The FCU may adopt one of the standard Bylaw amendments set out in NCUA Letter No. 56 (April 10, 1981). These standard amendments expand the definition of immediate families. 3. The FCU may choose to narrow or expand this definition by adopting a standard bylaw amendment, in accordance with the procedures set out in NCUA Letter No. 73 (February 2, 1983), that allows the FCU's board of directors to develop its own definition of the term "members of their immediate families."

In general, family members of anyone within the field of membership may join the FCU. There is, however, an exception to this policy. When dealing with a student group, immediate family members, however defined, extends only to students who have established membership themselves (i.e., family members may join the credit union only if the student has joined). This policy emphasizes that FCU's should not add student groups merely to include the student's parents in the field of membership.

The third section of the IRPS is entitled Multiple Group Charters. This is the area of field of membership policy that has undergone the most change since deregulation of field of membership began. As previously indicated, Section 109 of the FCU Act provides that FCU membership shall be limited to groups having a common bond of occupation or association or to groups within a well defined neighborhood, community or rural district. The Board interprets the first part of this provision to allow more than one occupational or associational

group to be included in the field of membership of a Federal credit union, on the condition that each group has its own occupational or associational common bond. Accordingly, two types of multiple group charters exist pursuant to Section 109 of the FCU Act, those involving occupational and/or associational groups and those involving community based groups. Occupational and/or associational multiple group charters are addressed first.

Prior to 1982, multiple group charters and mergers were limited to either occupational or associational groups (a multiple group of occupational and associational groups could not exist). Multiple groups were further limited in that the common bonds within the multiple group had to be similar. IRPS 82-3 deregulated field of membership so that it was no longer necessary to limit multiple groups to either the associational or occupational type. A multiple group now could be made up of both associational and occupational groups. The requirement for similar common bonds was also eliminated at that time. As indicated above, the requirement that each group have its own common bond remains intact. The regional directors have been delegated the authority by the Board to grant or deny this type of multiple group charter.

Five additional requirements must be met before this type of multiple group charter or charter amendment will be granted. These are listed in the IRPS. The first three criteria appeared in IRPS 82-3 and have not changed. The fourth criteria has been established to avoid overlaps in fields of membership. The fifth criteria was a part of IRPS 83-2 and has been slightly modified.

An overlap exists when a group is eligible for membership in two or more credit unions. The fourth criteria requires that if the group requesting service is already eligible for membership in another credit union, they must provide justification as to why they no longer desire that service. Policy requires that every effort be made to avoid an overlap situation. Ideally, a group should be eligible for membership in only one credit union. (However, it is recognized that an individual may be eligible for membership in a number of credit unions.) FCU's are encouraged to work out overlap problems internally. If a resolution of the problem is not reasonably forthcoming, and other circumstances warrant an overlap, then an overlap may be permitted. Circumstances to be considered are the nature of the problems, efforts to resolve the problems, financial impact on the credit union, the desires of the groups, and if applicable, the opinions of the state credit union supervisor and other interested parties. Although the fourth criteria is a new requirement for the granting of multiple group charters, NCUA policy on overlaps is unchanged. The addition of the fourth criteria will alert the regional directors to possible overlap situations before they occur.

The fifth criteria for a multiple group charter states that all of the groups must be within the operational area of the home or a branch office of the FCU. The definition of branch office as stated in IRPS 83-2 has been clarified. The policy on justification for adding new groups within the area of a branch office has been slightly modified. Under IRPS 83-2, the addition of a new group could not be used to justify a proposed branch office. A proposed branch office could only be justified on the basis of the current field of membership. This policy has been modified in IRPS 84-1 by changing the requirement that groups be within the well-defined area of an existing branch office to a requirement that they be within the operational area of a branch office. An FCU can now include new groups as partial justification for a proposed branch office if the proposed branch office will also improve credit union service to the existing field of membership. The new group alone is not enough to justify a proposed branch office. The current field of membership must comprise a significant portion of the total field of membership to be served initially by the proposed branch office. The old policy

has been modified for two reasons. In many cases, it effectively denied convenient credit union service to existing fields of membership. In addition, it was difficult to enforce. The requirement that new groups be within the "operational area" of the home or a branch office is substituted for the previous requirement that they be within a "well-defined area" of such an office. Since the limitation is not necessarily a geographic one, operational rather than well-defined area seems more appropriate. As stated in the IRPS, "operational area" shall mean an area surrounding the home or a branch office that can reasonably be served by the applicant credit union as determined by the regional director. The operational area limitation should help to ensure that groups receive service from FCU's, not merely become a part of the field of membership.

One additional issue involving operational area needs to be addressed: the corporate headquarters issue. Under prior policy, when a corporate headquarters was located within the well-defined area of an FCU, the entire employee group could be included in the field of membership. When a majority of employees worked within the operational area but the corporate headquarters was not within the area, the group was not eligible for membership. This inconsistency has been corrected. The new policy is as follows: When either the corporate headquarters is located or a simple majority of employees work within the operational area, the employee group is eligible to be added to the field of membership. It should be noted that these groups will now be treated as any other group in a multiple group charter application and are subject to the five criteria set out above.

The second type of multiple group charter exists when any portion of the group is community based. In order for this type of multiple group charter to be approved, the combined field of membership is limited to a well-defined neighborhood, community or rural district, as determined by the regional director. The well-defined neighborhood, community or rural district is mandated by Section 109 of the FCU Act. Pursuant to delegated authority, if the population of the proposed well-defined neighborhood, community or rural district is under 35,000, the charter decision is made by the regional director. If the population exceeds 35,000, the charter must be approved by the NCUA Board. This population policy also applies whenever a community-based FCU proposes to expand its boundaries. If the population of the proposed expanded community exceeds 35,000, the charter must be approved by the NCUA Board. The policy does not apply when occupational or associational groups outside of the community are added to the field of membership without expansion of boundaries. The regional director will make the determination, regardless of population. Occupational or associational groups outside the community may be added, however, only if they are within an area such that, when combined with the community, the resulting larger area could be considered for a community-based charter.

The regional directors are now authorized to remove new groups added to a credit union if those groups are not being satisfactorily served. This does not include the authority to cut off membership rights of someone who has established membership with the FCU. They would retain their membership through the "once a member, always a member" Bylaw. If an FCU does not have the "once a member, always a member" Bylaw, it may be added before any groups are removed. Removal of groups should reflect the current policy to provide credit union service to new groups - not simply to include new groups within a credit union's field of membership.

One last problem related to multiple group chartering is cross-regional mergers and expansions. Since the field of membership policy has been broadened, more cross-regional mergers and expansions have taken place. The policy on approval and control of cross-

regional mergers and expansions is as follows. No cross-regional merger or expansion will be authorized without the approval of all regional directors affected. In terms of administrative and operational control, the location of the continuing credit union in the case of a merger, or the home office in the case of an expansion, is controlling. That region will monitor and control the merged or expanded FCU and, of course, continue to examine the FCU once the merger or expansion is completed.

The last section of the IRPS addresses credit union service to senior citizens and retirees. On October 17, 1983, (See 48 F.R. 48830, dated October 21, 1983) the NCUA Board issued a request for comments for the second time on whether or not credit union services should be extended to retirees. Two hundred and fifty-one commenters responded to the second request. The overwhelming majority of the commenters (189) were in favor of expanding credit union service. Of those 189, 117 were in favor of offering such service to all retirees, regardless of prior credit union membership. Seventy-two commenters favored a more limited expansion. These 72 were fairly equally divided between favoring service to retirees with prior credit union membership and to those with membership or eligibility for membership in a "like sponsor" credit union. Those that preferred the "like sponsor" option believed that such a requirement would maintain a common bond within each credit union. Fifty commenters were opposed to any extension of credit union service to retirees. The most frequent reason given for the opposition to the extension of service to retirees related to concerns about expansion of the common bond.

Having considered this issue further, the Board believes that none of the specific policies previously proposed concerning senior citizens and/or retirees provides an acceptable solution. On the one hand, legitimate concern has been expressed that simply authorizing Federal credit unions to serve all senior citizens and retirees in their area may not meet the statutory requirement of an occupational or associational common bond. (Community-based credit unions may, of course, already serve all senior citizens and retired persons in the community, and thus, service by community credit unions is not at issue.) On the other hand, the more limited proposals do not serve the important public policy goal of providing maximum opportunity for senior citizens and/or retired persons to obtain basic financial services as conveniently and economically as possible. The NCUA Board is committed to the notion that Federal credit unions can and should play an important part in fulfilling this obligation. The public comment record on this issue shows that Federal credit unions agree.

Accordingly, the Board has determined to formally state a policy of encouraging Federal credit unions to bring associations of senior citizens and/or retired persons within their fields of membership, and to sponsor and assist in the formation of such associations where they do not exist. The Board would hope that implementation of such a policy will become an important credit union initiative, with as little red tape and government interference as possible.

To facilitate the carrying out of this policy, the Board has taken the following important steps. First, the Board has determined that in the case of senior citizens and retiree associational groups, an exception will be created to standard associational chartering policy: the standard rule is that a primary purpose of the formation of an association may not be to provide credit union membership to the association members. That rule will not apply in the case of charter amendments to add senior citizens and/or retiree groups. In addition, the provisions of Section II, Chapter 4 of the NCUA Chartering Manual, concerning associational groups, will not apply to charter amendments to add senior citizens and/or retiree groups. These provisions, which include for example the requirement that a

constitution, bylaws and financial statement be filed with NCUA as part of the application for an associational group charter, are in large part directed at determining the economic feasibility of the credit union and are of less concern when considering the addition of an associational group to an established credit union. Also, such provisions would interfere with the goal of facilitating formation of senior citizens and/or retiree associations and providing credit union services to these groups, with a minimum of bureaucracy and red tape. Details concerning the formation of these associations will be left to the sponsors and association members. Once an association has been formed, it can be expeditiously processed by the NCUA regional office for addition to an FCU's field of membership pursuant to the normal procedures for multiple group charter amendments. The NCUA Board believes that sponsoring and assisting in the formation of senior citizen and retiree groups by Federal credit unions is in the public interest. Senior citizens and retirees have always been an important segment of the credit union population, especially in their capacity as volunteers. It is the Board's belief that increased FCU accessibility to senior citizens and retirees will benefit the credit union industry as well as provide a needed service to a greater number of people who do not presently have credit union service available to them.

## IRPS 84-1 -- Membership in Federal Credit Unions

### I. Purchase of Loans of Liquidating Credit Unions Under Section 107(14)

Section 107(14) of the FCU Act, 12 U.S.C. §1757(14), authorizes FCU's to purchase assets and to assume liabilities of other credit unions, subject to regulations of the Board. The Board interprets this provision to authorize it to allow FCU's to provide customer services to members whose loans are purchased or whose share accounts are assumed pursuant to the provision. In cases of liquidation it is especially important, in order to protect the interests of the National Credit Union Share Insurance Fund, to utilize this authority. Accordingly, it shall be the policy of the Board that an FCU which purchases the loans of a liquidating credit union may offer full membership rights and services to the borrowers whose loans it has purchased. In cases where the borrower is converted to membership status, section 107(14) shall be considered the operative provision and the five percent limit of Section 107(13) shall not apply.

### ii. Bylaws Affecting Field of Membership

Two of the Standard Federal Credit Union Bylaws (Bylaws) apply to field of membership policy. Section 5 of Article II of the Bylaws is the "once a member, always a member" Bylaw. It provides that the board of directors of each FCU may resolve that members who are no longer within the field of membership may retain membership if they meet reasonable minimal standards set by their board of directors. The second Bylaw affecting field of membership is Section 2(a) of Article XVIII. This is the definition of immediate families. Not all FCU's include immediate family members within their field of membership. To be included, "members of their immediate families" must appear in Section 5 of the FCU's charter. A standard Bylaw amendment to Section 2(a) of Article XVIII allows FCU's adopting it flexibility in defining "members of their immediate families." With this Bylaw amendment, each FCU may define for itself the phrase "members of their immediate families."

### III. Multiple Group Charters

In connection with new charters, charter amendments, conversions and mergers, the Board has delegated to the regional directors the authority to approve FCU fields of membership

including more than one distinct group. The regional directors also have the authority to remove new groups added to a credit union if those groups are not being satisfactorily served. In all cases of disapproval of a multiple group charter application or removal of a group, the regional director will advise the applicant of the reason(s) for disapproval or removal and of the right to appeal the decision to the NCUA Board. Pursuant to Section 109 of the FCU Act, 12 U.S.C. §1759, the Board has recognized two types of multiple group fields of membership. The first type involves groups that have common bonds of occupation or association. The second type covers groups any portion of which is community based. The two types of multiple groups are addressed separately.

#### Occupational or Associational Based

In order for this type of multiple group charter to be approved, each occupational or associational group that becomes a part of the larger group must have its own common bond. Five additional criteria must be satisfied before a regional director can approve a multiple group charter.

1. All affected groups have requested service from the applicant;
2. The applicant can provide credit union service to each group;
3. The application is economically feasible and advisable;
4. The applicant indicates whether affected groups are eligible for membership or are being served by any other credit union. If groups are eligible for membership or are being served by another credit union, they must provide justification why they no longer desire that eligibility or continued service.
5. All of the groups must be within the operational area of the home or a branch office of the Federal credit union. Operational area is an area surrounding the home or a branch office that can be reasonably served by the applicant as determined by the regional director. A branch office means any office of a Federal credit union where an employee accepts payment on shares and disburses loans. For purposes of this definition, disbursing loans includes making advances on lines of credit but does not include extensions of overdraft protection credit.

#### Community Based

In order for this type of multiple group charter to be approved, the combined field of membership is limited to a welldefined neighborhood, community or rural district, as mandated by Section 109 of the FCU Act. Any group or individual that is within the defined neighborhood, community or rural district, unless specifically excluded in the credit union charter, is eligible for membership in the community FCU. The approval of the NCUA Board is required if the population of the area exceeds 35,000. Should a group outside of the well-defined neighborhood, community or rural district seek to attain membership, that group must be geographically situated so that it and the community FCU are also within a more broadly defined well-defined neighborhood, community or rural district. The larger area must constitute a geographical area that could statutorily be established as a community credit union. Once it is determined that the larger defined area exists, two options are available. The first option is that a larger defined area will become the boundary for the community FCU. All groups and individuals within the larger defined area will now be eligible for membership. Under the first option, NCUA Board approval is required if the

larger defined area's population exceeds 35,000. The second option is that only groups seeking membership will be added to the community charter. The FCU boundaries will not be expanded to include all groups in the community charter. Under this second option, the five criteria set out under Occupational or Associational Based must be met.

#### IV. Service to Senior Citizens and/or Retirees

Pursuant to Section 109 of the Federal Credit Union Act, senior citizen and/or retiree organizations may be added to Federal credit union fields of membership in compliance with the Multiple Group Charter policy set out above. The definitions of senior citizen and/or retiree are left to each individual organization. Federal credit unions may sponsor or assist in the formation of senior citizen and/or retiree organizations in their operational area. Section II, Chapter 4 of the Chartering and Organizing Manual for Federal Credit Unions does not apply to senior citizen and/or retiree organizations that wish to join an established Federal credit union. Such organizations may be formed with a primary purpose of providing eligibility for FCU service to the organizations and their members.

The NCUA Board finds that compliance with the above guidelines will result in fields of membership that meet the membership requirements of Section 109 of the FCU Act, 12 U.S.C. 91759.

IRPS 82-3 and IRPS 83-2 are hereby cancelled and superseded by this interpretive ruling and policy statement.

List of Subjects in 12 C.F.R. Part 701 Credit Unions

ROSEMARY  
BRADY  
Secretary of  
the Board

Date: 11/15/84