

GC/MFR:bhs
SSIC 3000
01-0255

TO:

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendments,

DATE:

You have asked this office to review several proposed nonstandard bylaw amendments requests from [] Federal Credit Union. Below are our comments on each proposal.

The Federal Credit Union Bylaws (FCU Bylaws) provide that members may pay their initial membership share either in full or in installments. FCU Bylaws, Article III, Section 1. The FCU proposes eliminating the option of paying in installments. The Federal Credit Union Act (Act) states that a requirement for membership to a federal credit union (FCU) is that each member "subscribe to at least one share of its stock and pay the initial installment thereon." 12 U.S.C. §1759(a). We interpret this statutory provision as requiring FCUs to allow members to pay their initial share in installments and oppose its elimination from the bylaws. We note that the bylaws do not specify the amount or time frame for the installments. An FCU could limit it to two installments by inserting the appropriate amount in Article III, Section 1 and inserting two months in Article III, Section 3.

The FCU also proposes eliminating Article III, Section 3 of its bylaws because it has policies that address fees and inactive accounts. This bylaw provision gives a member whose balance falls below par value a certain period of time to bring his or her account back to par value before being terminated from membership. Although the FCU's bylaws may duplicate the FCU's policies, we believe it is important that the provision remain in the bylaws. If this were only addressed in the FCU's policies, the FCU could change its policies and a member would be deprived of this right. We have previously stated that, when an account is involuntarily reduced to zero through the assessment of fees, Article III, Section 3 applies and a member must be given an opportunity to bring his or her share balance up to par value. This is in contrast with Article II, Section 3 that provides that if a member voluntarily withdraws his shares, membership is automatically terminated.

The FCU proposes amending the requirements for notice of annual and special meetings in Article IV, Section 2. Currently, this provision requires notice be sent at least 30 days, but not more than 75 days in advance of the annual meeting and 7 days before a special meeting. The FCU wants to reduce the time frames to at least 14 days, but not more than 30 for the annual meeting and 14 days for a special meeting. You oppose this amendment because you believe that members need a minimum of 30 days notice to plan their schedules and make arrangements to attend the annual meeting. We concur with your objection for the reasons you discussed in your memo.

Finally, the FCU proposes eliminating the restrictions in Article VI, Section 2 on the number of directors' immediate family members that can be paid employees of the FCU and the overall prohibition against a majority of the directors, including their immediate family members being paid employees of the FCU. You oppose eliminating these limitations for internal control reasons. We concur with your objection for the reasons you discussed in your memo.