

GC/CJL:bhs
SSIC 3700
01-0824

TO:

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendments

DATE: August 30, 2001

You have asked for our concurrence for two nonstandard bylaw amendments from [] Federal Credit Union that would waive the entrance fee and establish a lower par value for students. While the credit union may establish different par values, the waiver of the entrance fee for some members is impermissible.

The Federal Credit Union Act (the Act) provides that an applicant admitted to a credit union's membership must "subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors." 12 U.S.C. §1759(a). The Federal Credit Union Bylaws (FCU Bylaws) track the statutory membership provision. FCU Bylaws, Article II, Section. 2. The credit union proposes to amend its bylaws by waiving its entrance fee for "enrolled students." As noted in the attached memorandum [] dated September 15, 1986, it has been our longstanding position that the entrance fee cannot vary for members because the Act requires the fee to be uniform. The charging of an entrance fee, however, is within the discretion of the board of directors so it may choose to eliminate the fee for all applicants.

In discussions with us, regional staff indicated they thought credit unions might have waived membership fees involving simultaneous membership and loan applications in indirect lending programs credit unions. We have not located an opinion or nonstandard bylaw amendment that permits the waiver of entrance fees. Staff may be remembering other prior opinions in which we have stated that, in indirect lending or special promotions, credit unions may pay a new member's initial share or attribute the member's initial subscription to an account other than a regular share account. The attached letters from Richard Schulman to Dale Verderano, dated June 8, 1995, James Engel to James Pearson, dated May 2, 1994, and Robert Fenner to W.J. Sayres, dated November 1984, further discuss this issue.

The Act authorizes the board of directors to establish the par value of the share. 12 U.S.C. §1761b(11). The credit union proposes to amend its bylaw that establishes the par value of a single credit union share by reducing the \$25 par value to \$5 for enrolled students. Our longstanding interpretation is that the Act does not prohibit a board of directors from setting different par values for different classes of shares provided that the credit union does not violate any other applicable laws, such as discrimination laws. This is discussed in the above-referenced [] memorandum as well as the attached letter from James Engel to James Stuppy, dated August

1, 1991, and memorandum issued by Hattie Ulan, dated June 5, 1990.

Attachments