

January 5, 1993

Steven R. Bisker, Esq.  
616 South Washington St.  
Alexandria, VA 22314

Re: Interpretation of Section 115 of the FCU Act (Your November 16, 1992, Letter)

Dear Mr. Bisker:

Section 115 of the Federal Credit Union (FCU) Act, 12 U.S.C. ~1761d, provides, inter alia, that the supervisory committee "may by a unanimous vote suspend an officer of the credit union or any member of the credit committee or of the board of directors, until the next members' meeting . . ." You have asked how to interpret the word "unanimous" when a director serving on the supervisory committee is the director the committee is seeking to suspend.

Under general corporate law, a director may not vote on a matter in which he or she has an interest that is adverse to that of the corporation. Based on this principle, a director on the supervisory committee which is voting to suspend that director is disqualified from participating in the vote. As you note, this raises the question of how a unanimous vote to suspend can be achieved. We believe that the best way to give meaning to the statute is to read "unanimous vote" as unanimous vote of the members eligible to vote. Since the interested director is not eligible to vote, the unanimity requirement can be met.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

GC/LH:sg  
SSIC 3601  
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