

February 27, 1996

Tim Pryor
Director of Regulation and Compliance
National Association of Federal Credit Unions
P.O. Box 3769
Washington, D.C. 20007

Re: Branching Authority (Your January 23, 1996, Letter)

Dear Mr. Pryor:

You have asked us to reconsider our November 3, 1995, letter to USA Federal Credit Union regarding the credit union's ability to open branch offices. In that letter, we stated that, "if a credit union wants to open a branch office and serve new groups, it must determine if members currently within the FCU's field of membership to be served by the branch constitute a significant portion of all of the individuals to be served by the branch." We declined to offer an opinion on what constituted a "significant portion" leaving that discretion to NCUA regional offices. You stated that the regions "have already taken this letter as a broad new grant of power." We disagree.

An FCU does not need NCUA authorization to expand into new branches. The letter and the Chartering Manual address "significant portion" as it relates to "planned service facilities," that is, a proposed branch for the purpose of field of membership expansion. Chartering Manual, Chapter 2, Section II.A.1. In the Chartering Manual, the NCUA Board expressed its concern with the safety and soundness of opening branch offices where there were few existing members to be served. The underlying purpose of this policy is to prevent FCUs from using field of membership expansion as a primary reason for planning new branches. If an FCU wants to use a proposed branch to expand field of membership, then the Board will require that "[t]he current field of membership constitutes a significant portion of the total field of membership to be served initially by the proposed facility." Chartering Manual, Chapter 2, Section II.A.1. Consequently, if an FCU opens a new branch without having met the "significant portion" requirement, NCUA may restrict the credit union's ability to add new groups within the new branch's operational area.

Without citing examples, you stated that regions are demanding evidence that proposed branches serve a large number of members without "any showing by the region that the branch might endanger the safety and soundness of the credit union and with no statement that the credit union is prospecting for new [Select Employee Groups] by opening the branch." The Chartering Manual does not require the NCUA to demonstrate a violation *before* considering evidence. Indeed, it would be inadvisable for NCUA to make any such allegation without first reviewing the "financial projections and/or a business plan supporting amendments around a service facility in order to determine the economic feasibility and to address any safety and soundness concerns of the amendment." Chartering Manual, Chapter 2, Section II.A.1.

We are currently reviewing the Chartering Manual including the issues raised in your letter. Although this will not be addressed in the upcoming proposed amendments to the Chartering Manual, we expect the NCUA Board will be giving us direction on some of these issues in the next few months for a proposed rule change later in the year. In the meantime, an FCU that believes its region has unfairly denied them the ability to expand branch operations is free to seek redress with the NCUA Board.

Sincerely,

Robert M. Fenner
General Counsel

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