

May 7, 1996
Samuel M. Simpson, Manager/Director
Delaware Alliance Federal Credit Union
2320 North Dupont Highway
New Castle, Delaware 19720-6327

Re: Employee Serving as a Member of the Board of Directors (Your April 18, 1996, Letter)

Dear Mr. Simpson:

You have taken exception to Article VIII, Section 6 of the Federal Credit Union Bylaws (FCU Bylaws) which precludes the manager and assistant manager from serving on the board of directors and the standard bylaw amendment to Article VIII, Section 7 of the FCU Bylaws which allows an FCU to preclude employees and their family members from serving on the board of the directors. Your letter also suggests that the National Credit Union Administration (NCUA) encourages FCUs to adopt this amendment. Since we are not aware of any policy to encourage FCUs to adopt this amendment, we cannot address this complaint. We will explain the rationale behind allowing FCUs to adopt a bylaw amendment that excludes employees from serving on the board. We would also note that there is a standard amendment to Article VIII, Section 6 which *permits* the manager to serve on the board.

The rationale behind allowing FCUs to exclude senior management officials and employees from serving on the board, beside the obvious issue of internal control, is that FCU boards, unlike bank and corporate boards, are composed of volunteers. Section 111(c) of the FCU Act specifically states that "(n)o member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation." 12 U.S.C. §1761(c). If the board is composed of salaried credit union employees and senior management officials, an argument can be made that the board is using this as a means to circumvent the statutory prohibition against compensating board members. Rather than blur the lines of volunteerism, many FCUs maintain the bylaw which prohibits the manager and assistant manager from serving on the board and adopt the standard bylaw amendment which prohibits employees and their immediate family members from serving on the board. However, FCUs may exercise their own judgment in how their boards are comprised and the approved bylaws they adopt.

Sincerely,

Richard S. Schulman
Associate General Counsel

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