

January 22, 1997

Re: Credit Union Operations (Your September 12, 1996, Letter)

Dear :

We apologize for the delay in responding to your request. You have asked us to provide you with a better understanding of the workings of credit unions on the subjects of the ownership of credit union assets, the distribution of dividends, and the dissolution of credit unions. Our response, set forth below, only applies to federally chartered credit unions ("FCUs").

A federal credit union is a member-owned, member-controlled, not-for-profit cooperative financial institution, chartered under federal law, formed to permit groups of persons to save, borrow, and obtain related financial services and to participate in its management. Each credit union is funded by shares purchased by its members. Membership is limited to groups, each defined in the credit union's charter, who share a common bond of occupation or association, or are located within a well-defined neighborhood, community, or rural district. 12 U.S.C. §1759. Individuals who purchase at least one share become owners in the credit union with the right to vote. However, according to the Federal Credit Union Bylaws, once a member withdraws all of his/her shareholdings, that individual ceases to be a member of the credit union; therefore the member no longer has any ownership interest in the credit union, nor any voting rights.

The management and administration of a credit union are vested in its board of directors, made of volunteers elected from the membership. It is the duty of the board of directors to direct and control the affairs of the credit union, and the Federal Credit Union Act ("FCU Act") provides that the board of directors shall have the authority to take any action that is necessary and proper to carry out the purpose and powers of the credit union, subject to regulations issued by the NCUA Board. 12 U.S.C. §1761b(21). Therefore, the board of directors may authorize an investment in such fixed assets as an office building, equipment, and furniture as needed by credit union.

Dividends paid by a credit union represent a distribution of earnings to members as a return for investing in or saving with the credit union. Neither the FCU Act nor the NCUA Rules and Regulations require that a credit union declare a dividend. However, under the FCU Act, the board of directors has the power to authorize the payment of a dividend as long as the credit union has available current and retained earnings and has made provision for required reserves. 12 U.S.C. §1763. The board of directors establishes the dividend periods, dividend rates, and the dividend distribution dates. 12 U.S.C. §1763. Dividends may be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. 12 U.S.C. §1763.

Dissolution of a credit union can occur by the voluntary agreement of the members, or by the involuntary liquidation of the credit union by the NCUA Board. In a voluntary liquidation, a majority of a credit union's members vote to dissolve a solvent credit union. 12 C.F.R. §710.3. The board of directors are responsible for conserving the assets, for expediting the liquidation, and for equitable distribution of the assets to members. 12 C.F.R. §710.2. Once all assets have been converted to cash, all loans collected, and all liabilities paid, a pro rata distribution of the assets shall be made to the members. 12 C.F.R. §710.6. In the case of involuntary liquidation, generally, the NCUA Board has determined that a credit union is insolvent and has placed it into liquidation. 12 C.F.R. §709.3. The NCUA Board, as the liquidating agent, makes every effort to pay all unsecured claims in full according to the payout priorities set forth in Section 709.5 of the NCUA Rules and Regulations. 12 C.F.R. §709.5. Any remaining surplus is then distributed pro rata to the credit union's members. 12 C.F.R. §709.5(e). In a voluntary or involuntary liquidation, only the

members who currently have shareholdings in the credit union are entitled a pro rata share of the assets distributed. 12 C.F.R. §710.6.

If you would like a copy of the FCU Act, the NCUA Rules and Regulations, or any of our other publications, you can obtain a copy of them off the internet on our website at www.ncua.gov. or by contacting our publications department at 703-518-6340.

Sincerely,
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Acting Associate General Counsel

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