

December 2, 1998

Richard Howdeshell, President/CEO
Fort Worth Federal Credit Union
819 Taylor Street, Room 7A23
Fort Worth, Texas 76102

Re: Membership Rights and Subscription Requirements.

Dear Mr. Howdeshell:

You have asked whether a federal credit union (FCU) may have different subscription requirements for new members based on whether the new member is receiving a loan at the time the member joins. FCUs cannot create separate classes of members with different subscription requirements and different rights to obtain services where there is no rational basis for doing so. The membership policies you propose, as described below, are impermissible.

Specifically, you have asked whether FCUs may permit members, who obtain automobile loans as part of an indirect lending program, to join the FCU and open a share account with an initial subscription of \$5, while requiring other new members, who are not part of the indirect lending program, to make an initial subscription of \$25. New members who join with an initial subscription of \$25 cannot obtain any other services until they have \$100 in a regular share account, which is the FCU's par value for a share. Thus, not only are members who are not part of an indirect lending program required to pay more to join the FCU, but they are ineligible for lending services until they have paid the par value of one share.

The FCU Act provides that persons may be elected to membership upon the subscription to at least one share of the credit union and the payment of the initial installment thereon. 12 U.S.C. §1759. Article III of the FCU Bylaws provides for an FCU's board of directors to establish the par value of a share, permissible installment amounts, and a time period in which a member must complete payment of at least one share. These provisions contemplate that the same subscription requirements will apply to all persons elected to membership. In addition, we note that, while FCUs may adopt policies that limit services to members, such as lending, if there is a rational basis, the above-described policies withhold lending services from members who are not part of an indirect lending program without a determination as to their creditworthiness. Thus, the policy lacks a rational basis for the disparate treatment.

You have also asked whether an FCU could amend its bylaws to provide for this disparity in treatment. No, for the reasons discussed above, a non-standard bylaw amendment to implement such a policy would be impermissible.

Sincerely,

Sheila A. Albin

Associate General Counsel

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