

**NCUA LETTER TO FEDERAL CREDIT UNIONS
NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314**

**DATE: August 6, 1996
LETTER NO.: 96-FCU-2**

TO ALL FEDERALLY INSURED CREDIT UNIONS:

RE: Multiple Group FOM Policies

A panel of judges for the Court of Appeals for the District of Columbia ruled last week that NCUA's multiple group FOM policies are not consistent with the Federal Credit Union Act. Specifically, the Court stated, in discussing occupational credit unions, that "...all members of an FCU must share a common bond". The case has been remanded to the District Court to enter appropriate relief regarding select employee group expansions for the credit union involved in the lawsuit.

It has been the Agency's position since 1982 that groups with unlike common bonds could unite to form a single credit union. This policy, obviously, conflicts with the Court of Appeals ruling. However, at this point, the District Court has not ruled on the appropriate relief and it is not expected to rule until mid-September at the earliest. In the meantime, NCUA legal staff will continue to evaluate the decision, consult with appellate counsel and other party defendants, and gather data in support of the Agency's position.

The essential concept and objectives of the multiple group policy developed in 1982 have not changed and remain an important tenet of current field of membership policy. The multiple group policies provide important benefits to NCUA, credit unions and credit union members. Credit union failures have been prevented; credit unions have been able to diversify and strengthen their financial soundness while reaching previously unserved groups; and credit unions have continued their commitment to serve low income individuals and communities. We believe that the multiple group policy remains legally sound and operationally critical. Accordingly, the Agency intends to aggressively pursue all available remedies to reverse the ruling of the Court of Appeals.

While this matter is under review, and until further notified, the NCUA Board provides the following guidance to Federal Credit Unions:

- The multiple group policies set forth in IRPS 94-1 remain effective. Applications now in process and any applications received will be processed pursuant to the guidelines in IRPS 94-1. If the applications meet all necessary criteria, they will be approved. This policy guidance includes mergers, Select Employee Groups (SEGs) and the Streamlined Expansion Procedure (SEP), and new charters with multiple groups.
- All approved applications for field of membership based on the multiple group policies (mergers, SEGs, SEPs, new charters with multiple groups) will contain the following statement from NCUA:

"This application was approved based on multiple group policies that the Court of Appeals for the District of Columbia declared invalid in a case involving a North Carolina Federal Credit Union. You are advised that the Court said, in the context of an occupational credit union, "...all members of an FCU must share a common bond".

The National Credit Union Administration is reviewing the scope of the opinion and will aggressively

seek its reversal; however, you are advised that the Courts may order that the groups added pursuant to the multiple group policies after the date of the Court of Appeals decision must be divested. Such divestiture could include not only the group added, but the members from that group who joined the credit union.

The Board of Directors should specifically approve adding new members only after considering the potential for divestiture."

- All credit unions that have been approved to add small groups utilizing SEP are immediately being informed of the Court of Appeals ruling and provided the advice set forth above.
- The emergency merger provision of the Federal Credit Union Act was not affected by the Court of Appeals ruling. All mergers of credit unions with dissimilar common bonds will be analyzed to determine if the emergency merger provision is applicable. If so, the emergency merger provision will be utilized.
- Credit unions may continue to solicit new members from SEGs approved prior to the Court of Appeals decision. Credit unions are advised, however, that it is possible court orders will require that they divest new members added after the Court of Appeals decision.

Again, NCUA strongly disagrees with the Court of Appeals decision and intends to pursue every possible avenue to have it reversed.

Sincerely,

Norman E. D'Amours
Chairman of the Board