

NCUA LETTER TO FEDERAL CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION

1775 Duke Street, Alexandria, VA 22314

DATE: February 25, 1998
LETTER NO.: 98-FCU-2

TO ALL FEDERAL CREDIT UNIONS:

This letter is intended to inform you of an important decision issued today by the United States Supreme Court. In *NCUA v. First National Bank & Trust Co., et al.*, plaintiffs challenged NCUA's longstanding select employee group policy. This policy, first adopted in 1982, permitted multiple groups, each having a separate common bond, to be part of a single Federal credit union. Plaintiffs alleged that this policy was contrary to the plain language of the field of membership provision of the Federal Credit Union Act. The Court agreed. ***This means that NCUA's select employee group policy is invalidated, unless Congress changes the field of membership provision of the Federal Credit Union Act.***

The case will now be returned to the lower court for a determination of appropriate relief. NCUA has appealed several issues relating to the scope of relief provided for in the Federal District Court's injunction. These issues relate to the application of this decision to select employee groups which were added to credit unions prior to the Court of Appeals decision in July 1996. These appeals will have to be decided before the scope of the relief can finally be resolved. For the time being, you should continue to comply with the terms of the October 26, 1996, injunction as partially stayed on December 24, 1996. ***This means that you may continue to admit new members from existing select groups.***

We regret that the Court's ruling invalidates NCUA's select employee group policy. We support the expedited consideration by Congress of this matter to change the language of Federal Credit Union Act to expressly permit multiple group credit unions.

In order to minimize the effect of this decision on the safety and soundness of credit unions, NCUA is taking the following steps:

- > We will immediately ask the D.C. Circuit Court of Appeals to continue its partial stay of the District Court's injunction while we pursue our appeals of the appropriate scope of any relief. If granted, this motion will allow credit unions to continue to operate as they have since the partial stay was issued on December 24, 1996.
- > We are reviewing lawsuits challenging other aspects of NCUA's chartering policy which have been brought in various districts around the country. Where appropriate we will continue to vigorously defend these actions.
- > We will be issuing a revised chartering manual consistent with the Supreme Court's ruling for notice and comment in the near future.

For further information contact your regional office.

For the National Credit Union Administration Board,

NORMAN E. D'AMOURS

Chairman