

# **NCUA LETTER TO FEDERAL CREDIT UNIONS**

**NATIONAL CREDIT UNION ADMINISTRATION  
1775 Duke Street, Alexandria, VA 22314**

**DATE: September 2013                      LETTER NO: 13-FCU-03**

**TO: Federal Credit Unions**

**SUBJ: Potential Violations of Common Bond Advertising Requirements**

Dear Board of Directors and Chief Executive Officer:

If your credit union is advertising that *anyone*, without limitation, is able to become a member of your credit union, then *you may be in violation of federal law and regulation*.

Some overly aggressive marketing campaigns by federal credit unions to facilitate membership through associational groups are providing consumers with misleading information about single and multiple common bond membership requirements.

NCUA is particularly concerned about advertising by federal credit unions stating their fields of membership are “open to anyone.” Several recent examples of such overly expansive advertising focus on becoming a credit union member by first joining a particular association. Mainstream financial publications have picked up on this message, as evidenced by recent articles listing federal credit unions perceived to have “open” membership. This gives the false impression that there are no restrictions on joining a federal credit union—which is not the case.

In light of these issues, this letter is intended to remind you of the:

- Common bond requirements in the Federal Credit Union Act and NCUA rules;
- Requirements for accuracy of advertising in NCUA rules; and
- Consequences of failing to comply with these requirements.

## **Common Bond Requirements**

Section 109(b) of the Federal Credit Union Act limits federal credit union membership to three basic types – single common bond, multiple common bond, and community:<sup>1</sup>

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<sup>1</sup> 12 U.S.C. 1759(b). Community credit unions serve persons and organizations within the boundaries of a well-defined local community, neighborhood, or rural district.

- A *single common bond* credit union consists of persons related by their occupation, (i.e., their place of employment or trade, industry or profession), or related by their association (i.e., place of worship or affiliations).
- A *multiple common bond* credit union consists of more than one group of persons related by either their occupational or associational affiliations.
- NCUA rules, specifically the Chartering and Field of Membership Manual,<sup>2</sup> explain the requirements for the associational common bond.<sup>3</sup> NCUA determines whether a group satisfies the associational common bond requirements based on a “totality of the circumstances” test, which has the following seven factors:<sup>4</sup>
  - 1) Whether members pay dues;
  - 2) Whether members participate in the furtherance of the goals of the association;
  - 3) Whether the members have voting rights;
  - 4) Whether the association maintains a membership list;
  - 5) Whether the association sponsors other activities;
  - 6) The association’s membership eligibility requirements; and
  - 7) The frequency of meetings.

NCUA’s Office of Consumer Protection has begun conducting quality control reviews of federal credit unions that may be improperly using associations to sign up members without a common bond.

### **Advertising Requirements**

Section 740.2 of NCUA’s Accuracy of Advertising rule prohibits any advertising or representation that is inaccurate or deceptive. Advertisements that include language to the effect that “anyone can join” or “membership is open to everyone”—without any qualifying language—can give the impression that the Federal Credit Union Act’s single or multiple common bond requirements do not apply. When this occurs, the advertisements are inaccurate or deceptive.

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<sup>2</sup> 12 C.F.R. 701, Appendix B.

<sup>3</sup> 12 C.F.R. 701, Appendix B (Chapter 2, Section III.A.1). A single associational common bond consists of individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.

<sup>4</sup> 12 C.F.R. 701, Appendix B (Chapter 2, Section III.A.1). The Chartering Manual notes specific examples of categories of groups that may or may not qualify as having an associational common bond.

Please review your credit union's advertising and promotional practices and ensure all current and future materials accurately portray membership eligibility.

### **Consequences of Non-Compliance**

The Federal Credit Union Act provides NCUA with a broad array of supervisory and administrative tools to enforce the law and rules. Depending on the degree of non-compliance, NCUA may initiate a supervisory contact, require a federal credit union to divest an associational group from its field of membership, and/or issue a Cease and Desist order.

The tool NCUA chooses will depend on a variety of factors including the severity of a particular violation, available methods to rectify a violation, and the extent of a federal credit union's cooperation.

Upholding the membership standards of every federal credit union charter is essential to maintaining the integrity of the federal credit union system.

If you have any questions about NCUA's common bond or advertising requirements, please contact the Office of Consumer Protection at 703-518-1140 or [OCPMail@ncua.gov](mailto:OCPMail@ncua.gov).

Sincerely,

/s/

Debbie Matz  
Chairman