



OHIO CREDIT
UNION LEAGUE

May 14, 2018

Gerald Poliquin
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314

Re: Federal Credit Union Bylaws: Advanced Notice of Proposed Rulemaking

Dear Mr. Poliquin,

The Ohio Credit Union League (OCUL) welcomes the opportunity to submit comments concerning the National Credit Union Administration's (NCUA) Advanced Notice of Proposed Rule Making (ANPRM) as it relates to updating the standard federal credit union bylaws.

OCUL represents Ohio's 276 credit unions and their nearly three million members. Ohio is home to 150 federally-chartered and insured credit unions, 76 state-chartered, federally-insured credit unions, and 50 state-chartered, privately-insured credit unions.

The dual-charter system is recognized in 47 states and provides choice as to whom will serve as their institution's chartering authority and prudential regulator. In Ohio, that ratio leans to the federal-charter from a credit union number standpoint, while the majority of assets are held by state-chartered credit unions. The dual-chartering system nourishes greater diversity of credit unions and reflects the specific needs of their unique membership. By updating the standard bylaws and continuing to modernize operations, NCUA keeps the federal charter competitive, ensuring a thriving dual-charter system.

For brevity and organization, we will address only the standard bylaws questions and issues contained in this ANPRM that we believe are most pertinent to Ohio's credit unions. Additionally, OCUL acknowledges the limitations that the Federal Credit Union Act (FCU Act) imposes upon NCUA and the credit union industry as a whole.

Question 1: *How can the Board improve the FCU bylaws amendment process?*

As with other federal agencies, a one-size-fits-all approach (through a set of contractual requirements to accommodate the vast diversity of credit unions nationwide-in size, scope, asset volume, and geography) is antiquated to the sophisticated and tailored nature of credit unions serving their communities. NCUA should provide more flexibility, empowering credit unions to issue and comply with their own bylaws, tailored to their membership composition. Additionally, membership application procedures do not need to be included in the bylaws. These application procedures are more appropriate for the membership application form itself.

Question 2: *How can the Board clarify the FCU bylaws provisions addressing limitation of services and expulsion of members?*

The FCU Act authorizes the credit union's board of directors to expel a member based on his/her non-participation, so long as there is a majority of directors in agreeance. NCUA bylaws



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expand upon this, noting that the member's services may be limited if the member is disruptive to credit union operations.

NCUA's bylaws should include examples of which acts could evidence "non-participation" which subject the member to expulsion.

Moving forward, such illustrations of non-participation triggers may include:

- Failure to maintain the necessary requirements for membership;
- Physical assault, harassment, or multiple incidents of verbal abuse;
- Neglect or refusal to comply with the FCU Act;
- Habitual neglect to pay obligations or the default on obligations;
- Theft;
- Insolvency or bankruptcy; and,
- Engages in conduct detrimental to the credit union.

Further, additional clarification on the term "disruptive to credit union operations" mentioned in NCUA Bylaws Article XIV should be clarified with agency guidance to help credit unions implement a limitation of service policy.

As the FCU Act is silent on the feasibility of temporary suspensions of memberships, temporary suspensions should be permitted. A temporary suspension of a member would be necessary when the member engages in unacceptable conduct that poses an imminent threat to any other member, staff, or the credit union.

Any due process concerns under the FCU Act may be remediated by providing suspended and expelled members with 45 days' notice to respond with a written request for a hearing.

Question 3: *How can the Board improve the FCU bylaws to facilitate the recruitment and development of directors?*

OCUL believes that the recruitment of credit union board members would be enhanced by model processes, starting from guidance for nominating committees to ongoing development of directors. Because of the diversity of credit unions, the implementation may vary. However, basic mechanisms helping credit unions maintain board stability, continuity, and training and development ensure credit unions are equipped with robust, competent, and engaged board members.

Further, our state-chartered credit unions facilitate board recruitment through an associate board member process. At the credit union's discretion, the credit union appoints associate directors who sign a confidentiality agreement and participate in board meetings, but do not have voting powers. The credit union then can utilize the associate board member process when there is a vacancy on the board of directors. Such a model program may be helpful to include as a part of the model processes mentioned above.

OCUL believes board development can be improved by explicitly allowing boards to integrate technological capabilities. NCUA should clearly allow board meetings to be conducted via



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virtual, remote, or through other technology enabled means. Lastly, NCUA should permit directors to utilize modern advancements when casting votes-such as commonly integrated technology like closed-end survey systems, voting buttons, or other means.

Lastly, OCUL acknowledges that the FCU Act bars credit unions' directors from receiving compensation. However, OCUL would like to see credit unions afforded more flexibility when it comes to attracting and retaining a diverse board of directors-diversity in education, skill set, community involvement, and other criteria. In the future, we believe credit unions should be empowered to make the decision whether they reasonably compensate their board of directors. Thus, we encourage NCUA to engage with their counterparts in Congress to facilitate any changes to the FCU Act that would modernize operations including the permissibility of volunteer compensation.

Question 4: *How can the Board improve the FCU bylaws to encourage member attendance at annual and special meetings?*

As with other industries, modern technology provides technological capabilities which encourage participation without a direct, physical presence. As such, the more NCUA can encourage remote participation by explicitly including the permissibility of electronic or virtual participation, the more likely membership participation in annual and special meetings will increase. Digital and virtual (remote) technologies will continue to rapidly evolve, and NCUA must empower credit unions to embrace change in all facets of their operations.

Outside of electronic participation, NCUA should allow credit unions more flexibility in providing notice of the annual meeting. The annual notice must be provided at least 30 days but not more than 75 days in advance. However, it is more common for businesses and individuals to put meetings on calendars up to a year in advance. The current timeframe is arbitrary, and credit unions should be able to provide a notice of meetings as far in advance as is effective their specific circumstances.

Question 5: *Should the Board eliminate overlaps between NCUA's regulations and the FCU bylaws?*

As mentioned above, credit unions should be afforded the flexibility to include various items in their bylaws that are specific and tailored to their particular membership composition. However, for clarity and efficiency, NCUA should attempt to eliminate overlap between agency regulations and FCU bylaws.

Conclusion

Overall, OCUL and credit unions remain excited about the prospect of more a flexible bylaws process, reflecting changes to the credit union industry and membership. As NCUA continues the dialogue and rulemaking process for updating bylaws, OCUL looks forward to collaborating with the agency. If you have further questions or would like to discuss OCUL's comments in more detail, please feel free to contact us at 800-486-2917.

Respectfully,



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