



May 21, 2018

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314

RE: Federal Credit Union Bylaws Advance Notice of Proposed Rulemaking (Docket No. 2018-05625)

Dear Mr. Poliquin:

On behalf of Randolph-Brooks Federal Credit Union ("RBFCU"), this letter is being submitted in response to the National Credit Union Administration's ("NCUA") advance notice of proposed rulemaking ("ANPR") regarding federal credit union ("FCU") bylaws. We greatly appreciate the opportunity to comment.

1. How can the Board improve the FCU bylaws amendment process?

RBFCU supports revising the federal credit union bylaws amendment process in order to expedite the approval process for bylaw amendment requests. Specifically, pre-approved bylaw requests should be automatically approved, and all other requests should be timely processed within 30 days or less. As noted in the ANPR, a credit union's decision to amend its bylaws is often motivated by a pressing operational concern. Although the Office of Credit Union Resources and Expansion ("CURE") must provide a decision to credit unions requesting previously approved bylaws amendments within 15 business days of receipt, there is not a set timeline for other proposed amendments. Such inconsistency can create uncertainty for a credit union and prevent it from responding to operational concerns in a timely manner. Consequently, RBFCU recommends that the NCUA adopt a set timeline for providing a decision on non-preapproved proposed bylaws amendments.

2. How can the Board clarify the FCU bylaws provisions addressing limitation of service and expulsion of members?

At this time, RBFCU does not recommend any changes to Article 2, Section 4 of the bylaws, which addresses limitations of services. The limitations of services provision is purposely vague, stating that a "member who is disruptive to credit union operations may be subject to limitations on services and access to credit union facilities." The NCUA offered legal guidance on the issue in Legal Opinion Letter 08-0431, which clarifies that the NCUA has "no objection to suspending certain services to members where there is a logical relationship between the objectionable conduct and the services to be

Austin | San Antonio | Toll-free
512-833-3300 | 210-945-3300 | 1-800-580-3300

rbfcu.org

P.O. Box 2097, Universal City, Texas 78148-2097



suspended," so long as there is "direct evidence" of harm and the policy is in writing and provided to all members. Amending the bylaws to increase specificity would decrease the latitude offered to credit unions and adversely impact credit unions, because it would limit the flexibility they have to craft a limitation of services policy that best suits their needs. As such, the current provisions regarding limitations of services should be maintained.

However, Article 14 of the bylaws, which addresses expulsions and withdrawal of members, should be expanded to grant additional flexibility to credit unions. Under the FCU Act, a member can be expelled either by a nonparticipation policy properly adopted and distributed by the board of directors or by a two-thirds vote of members present at a special meeting called for that purpose, after the member has been given the opportunity to be heard. RBFCU believes greater latitude should be given to the board of directors to expel members. Specifically, the board of directors should be granted authority to adopt a policy which lists certain criteria for expelling a member, such as defrauding the credit union, using the credit union's services in furtherance of illegal purposes, or causing losses to the credit union. Such activities can create severe harm to a credit union and its members. Consequently, providing the board with authority to expel these members according to a pre-approved policy would greatly reduce the risk associated with these members to the credit union.

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

RBFCU believes directors should be recompensed for their time spent on preparing and attending meetings. Directors have a great responsibility in managing the direction of a credit union and therefore, it is imperative for credit unions to be able to identify and recruit highly educated and skilled professionals. Currently, many states allow state chartered credit unions to reasonably compensate their board. This better equips state chartered credit unions with the tools necessary to hire the most talented professionals. RBFCU believes preventing federally chartered credit unions ("FCUs") from compensating directors places them at an unfair disadvantage when recruiting and creates an immense challenge in meeting risk and compliance expectations. As such, we believe it would be beneficial to allow FCUs to compensate their board.

In the last 15 years, major market meltdowns such as the financial crisis of 2008 have forced regulatory shifts such as the creation of the Dodd-Frank Act. The rise in new financial regulations produced new expectations and challenges that boards must face. As a result, credit union directors must be more skilled and educated than ever before in order to effectively manage the new regulatory environment. As RBFCU prepares for the \$10 billion mark, we believe it is increasingly important that we are armed with the necessary tools to recruit and develop directors. Allowing us to recompense directors for their time and service offered would greatly help us in our credit union operations and will also allow us to continually offer exceptional member service to our members.

Austin
512-833-3300

San Antonio
210-945-3300

Toll-free
1-800-580-3300

rbfcu.org

P.O. Box 2097, Universal City, Texas 78148-2097



The ANPR seeks comment on whether or not NCUA should include commentary in the standard bylaws recommending certain non-binding factors that the nominating committee may consider when selecting a candidate to fill a particular vacancy. RBFCU does not suggest that the NCUA amend the bylaws to include specific examples of non-binding factors that could be used to nominate members to vacancies on the board of directors. Credit unions should be able to establish criteria to best suit their individual needs based on the size and complexity of their operations. Currently, the only eligibility requirements mandated by Article 5 of the bylaws are that the individual is a member of the credit union before ballots are distributed, the individual "cannot have been convicted of a crime involving dishonesty or breach of trust," and the individual meets the minimum age requirement.

The NCUA can amend the bylaws as explained above to help credit unions better retain and promote the development of its directors. Credit unions need knowledgeable and dedicated directors to ensure the effective and efficient continuity of its operations.

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

Article 4, Section 2 of the bylaws prescribes that notice of the annual meeting of members be provided from 30 to 75 days before the date, and that notice of any special meeting be provided at least 7 days before the date. We believe the current requirement that federal credit unions must provide members with at least 30 days and not more than 75 days written notice is adequate. However, it is our view that the bylaws should state that the credit union's notification of the annual or special meeting via email or other electronic means meets the definition of written notice.

Additionally, RBFCU believes that federal credit unions should be allowed to utilize teleconferencing or other web-based conferencing tools in conducting annual or special meetings provided that measures are in place to permit a member to appropriately engage in the meeting. Allowing technology-enabled participation at annual and special meetings will increase member attendance and improve the governance of credit unions.

5. Should the Board eliminate overlaps between the NCUA's regulations and the FCU bylaws?

The ANPR indicates that during its review of the standard bylaws, NCUA staff identified a number of NCUA regulations that overlap to some extent with the standard bylaws. Some of the overlaps are issues associated with member confidentiality, conflicts of interest, record retention, and the availability of books and records. Where possible, RBFCU supports the removal of bylaws provisions that duplicate regulatory requirements. This would help streamline the bylaws, leverage existing regulatory guidance, and lead to more concise, comprehensible rules.

Austin
512-833-3300

San Antonio
210-945-3300

Toll-free
1-800-580-3300

rbfcu.org

P.O. Box 2097, Universal City, Texas 78148-2097



Conclusion

In closing, we would like to once again thank you for the opportunity to comment on this ANPR which we feel is very important to our credit union and the credit union industry.

Sincerely,

Robert Zearfoss
Chief Financial Officer, EVP
Randolph-Brooks Federal Credit Union

Austin | San Antonio | Toll-free
512-833-3300 | 210-945-3300 | 1-800-580-3300

rbfcu.org

P.O. Box 2097, Universal City, Texas 78148-2097