



January 9, 2019

Mr. Gerard Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria VA 22314

Federal Credit Union Bylaws RIN 3313-AE86

Dear Mr. Poliquin;

Freedom Credit Union (Freedom) appreciates this opportunity to comment on the NCUA Board's proposal to update, clarify and simplify the Federal Credit Union Bylaws (FCU Bylaws). Freedom is a federally insured, state-chartered credit union. We have a significant stake in the final rule because the FCU Bylaws serve as a template for Pennsylvania's state-chartered credit unions. Freedom serves a well-defined local community consisting of the Philadelphia Metropolitan Division.

Overall, we support the modernization of the FCU Bylaws. The proposed NCUA staff commentary provides context and will help with executing governance functions. Infusing the staff commentary with legal opinion letters is also beneficial and will provide additional assistance with implementing and complying with the FCU Bylaws. NCUA's approach to revising the FCU Bylaws has been thoughtful and the agency has given stakeholder input serious consideration.

Our specific comments are intended to further improve the content of the FCU Bylaws, balancing efficient governance with the rights of members.

#### 1. Bylaw Amendments

Under the proposal, when an FCU submits a bylaw amendment, the Office of Credit Union Resources and Expansion (CURE) has 90 days to review the amendment. If CURE does not respond in 90 days, the proposed amendment is deemed to be denied. A 90-day window is a relatively long time to secure approval, especially if the bylaw amendment is needed for an upcoming annual meeting. CURE's review period should be reduced to 60 days. If CURE cannot render a decision within 60 days, it should notify the credit union that the period for review will be extended for a period not to exceed an additional 30 days. If CURE does not render a decision by the end of the extended period, the bylaw amendment should be deemed to be approved. We understand NCUA's concern that it is possible that a proposed amendment could be contrary to the Federal Credit Union Act or NCUA Regulations. Given CURE's experience, it should be able to vet that issue promptly.

## 2. Article II, Continuation of Membership and Member in Good Standing

We appreciate NCUA's attempt to clarify dealing with members who are disruptive or abusive. The staff commentary will be helpful in developing policies or procedures to deal with such members. We recommend that the last sentence of Article II, section 4 be amended to state, "The credit union may limit services and access to its facilities to a member who is not in good standing as described in Section 5 of these Bylaws." This change would tie sections 4 and 5 together and instruct members on the type of behavior that can lead to denial of services or access to facilities.

Expelling a member can only be accomplished by procedures established in the Federal Credit Union Act (FCUA). NCUA clarifies that a disruptive or abusive member retains the right to vote at annual meetings and maintain a share account. NCUA should re-examine this position. If a member is violent or threatening, their attendance at an in-person meeting to vote on any business opens the door to more potential problems. The expulsion policy should be amended to allow for immediate expulsion if the member's behavior is violent or threatening to the extent where police are called. If this proposed exception requires an amendment to the FCUA, NCUA and stakeholders should work to accomplish it.

## 3. Article III, Shares of Members

We have no objection to the proposed Article III. Section 6 and the related staff commentary establish the membership requirements for revocable and irrevocable trusts. The information is helpful. However, it strikes us that it would be more appropriate that the membership requirements for trusts be included in the NCUA Rules and Regulations, section 701.35, for example, as opposed to residing in the FCU Bylaws.

## 4. Article IV, Meetings of Members

Section 2 enhances meeting notice by requiring notice posted in credit union offices in conspicuous places and making the notice prominent on the credit union's website if the credit union has a website.

Section 6 increases the quorum to 13 members exclusive of board members, credit union staff and officials. This change is part of NCUA's effort to increase member attendance at board meetings. The change is modest and should not pose an undue burden.

The staff commentary encourages FCUs to provide a live webcast of annual and special meetings for interested members or post a video of the annual meeting on the FCU's website. We do not believe that a webcast will increase attendance. Also, the staff comment contradicts NCUA's decision explained in the proposal's preamble to consider hybrid meetings only on a case-by-case basis and not to allow virtual meetings to supplant in-person meetings. The same members who may not have broadband access may not be able to view a webcast. A webcast or video will not allow participation in the discussion. Accordingly, we cannot see how a webcast or video increases attendance at annual meetings.

Permitting FCUs to conduct annual or special meetings consistent with the state corporation law where the FCU is headquartered is the best approach. Amending the FCU Bylaws to permit annual or special meetings by video conference may increase attendance. A member could log in from home, increasing the convenience of participating. Pennsylvania corporation law allows a shareholder meeting to be conducted by internet or video technology provided: shareholders can read or hear the proceedings as they occur, vote on matters submitted to shareholders, pose questions, make motions, and comment on the business of the meeting.

## 5. Article V, Elections

The proposed Article V provides four options for conducting director and committee elections ranging from in-person voting to electronic balloting. These options offer flexibility and represent reasonable ways to conduct an election.

We oppose the last sentence of the Staff Commentary to Article V, subsection viii, Voting Methods. NCUA encourages FCUs that use voting option A4 “to consider whether they can also provide a means for members who come to the annual meeting but have not voted in the election, such as a paper ballot.” It is a substantial undertaking to conduct an election by electronic means and ensure that those who do not or cannot vote electronically to receive a paper ballot. Such elections are planned to open and close at a specific time and members are given adequate notice. Members have adequate opportunity to cast their ballot. Allowing additional voting once the electronic or mail balloting has closed will only cause confusion and cast doubt on the process and the election results. Therefore, NCUA should remove the final sentence of subsection viii from the Staff Commentary.

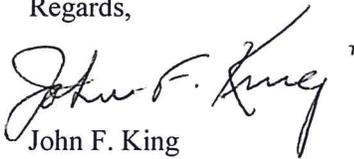
## 6. Article VI, Board of Directors

The Staff Commentary in subsections ii, Director Emeritus, and iii, Associate Directors, are helpful in terms of adopting such positions and clarifying the authority of such directors.

### Conclusion

Overall, the proposed FCU Bylaws provide clarification of credit union governance issues. We would be happy to address any questions NCUA may have about our comments at your convenience.

Regards,



John F. King  
President/CEO