

February 4, 1998

John W. Juers, Vice President and General Counsel
ESL Federal Credit Union
100 Kings Highway South
Suite 1200
Rochester, New York 14617-5598

Re: Membership Eligibility of Immediate Family Members, Your letter dated October 9, 1997.

Dear Mr. Juers:

Your letter asks about the eligibility for membership of immediate family members of persons within the field of membership (FOM) of ESL Federal Credit Union (the FCU). As part of its FOM, the FCU has persons who were members of record of the Eastman Savings and Loan (S&L) Association as of February 1, 1996, a predecessor of the Credit Union. The FCU permits the immediate family members of S&L members to join even if the S&L member is deceased. This is not permissible.

You assert that, since the individuals comprising the "S&L Member common bond group" was set on February 1, 1996, the membership eligibility of immediate family members of this common bond group should be analyzed differently. We disagree.

An FCU may only extend membership to individuals who are within its FOM. Chapter, Section II, NCUA Chartering and Field of Membership Manual (IRPS 94-1, as amended by IRPS 96-1). An FCU may include in its FOM those individuals who share a common bond of occupation, association, or community. Id. These individuals are considered primary members of the FCU. Id. at Appendix A. An FCU also may include in its FOM those individuals who have a close relationship to the FCU's common bond group such as "members of their immediate families," "volunteers," "persons who retired as pensioners or annuitants from the above employment," etc. Id. at Chapter 1, Section II.E. These individuals are considered secondary or derivative members of the FCU. Id. at Appendix A.

Where an FCU has included immediate family members within its FOM, the immediate family members of a primary individual may join the FCU as long as the primary individual is within the FCU's FOM at the time the family member joins the FCU. Thus, you correctly stated that immediate family members are allowed to join an FCU even if the primary individual is not a member, as long as the primary individual is within FCU's FOM. However, immediate family members only come within the FCU's FOM by virtue of their familial relationship to a primary member. Once the primary individual leaves the FOM without having become a member, the immediate family members of the

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primary individual are no longer eligible to join the FCU. If the primary individual is deceased, but was within the FOM at the time of death, the charter may include that individual's spouse. Id. at Chapter 1, Section II.E.

Finally, you should note that, unless an FCU has adopted a "once a member always a member" policy, the immediate family members cannot maintain their membership if the primary individual is no longer within the FOM.

Sincerely,

Sheila A. Albin
Associate General Counsel

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