



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

LS/SRB:DL

SSIC 4630

8/7/85

Ms. Judith M. Lees
Information Specialist
New York State Credit Union League
Credit Union Center
2 Wall Street
Albany, New York 12205

Dear Ms. Lees:

This is in response to your letter dated July 18, 1985, concerning membership by unincorporated businesses in Federal credit unions. Specifically, you list the following questions for which our answers and opinions are sought.

- "1. If a private, wholly owned unincorporated business is owned by a member or members of a federally chartered credit union, can they maintain a business share draft account with their credit union?
 - a. If so, can the business name be used, or must the account be entered in the member's name and a d/b/a? Is specific wording recommended?
 - b. Can the account number be the business tax code number rather than a member's social security number?"

Answer 1: Assuming that the FCU's charter either expressly includes the wholly owned unincorporated business in its field of membership, or, if it has "an organization of such persons" provision and all of the owners of the business are members of the FCU or are within the field of membership, then, to the extent that the unincorporated business is engaged in an independent activity (a true business activity is engaged in), it could become a member of the FCU. All members (including the wholly-owned unincorporated business) of the FCU, meeting whatever specific requirements the FCU might have, would be eligible to open a share draft account. Section 745.7 of the NCUA Rules and Regulations (12 C.F.R. Part 745.7) describes the share insurance coverage provided on such accounts.

Answer 1.a.: The member would be the unincorporated business and, therefore, the account should be established in the member's name (the name of the business). If the particular business is customarily denoted as, for example, "John Doe doing business as the XYZ Co.," and the membership card lists the member in this way, then the account should be established in the same fashion.

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Answer 1.b.: Use of account numbers is a matter within the discretion of the FCU. Of course, pursuant to the Internal Revenue Code and IRS regulatory provisions, appropriate tax numbers must also be used with the account. We suggest that you contact IRS for more details in this regard.

"2. What about an incorporated business? What regulations affect the name and numbers?"

Answer 2: Assuming, as above, that the incorporated business is eligible for membership, the account should be established in the name of the corporation. Appropriate IRS tax code numbers should also be used.

"3. If a member is a major stockholder of a corporation, can the corporation maintain a share draft account? What regulations affect the name and number?"

Answer 3: Unless the corporation is expressly named in the field of membership provision in the FCU's charter, or, all of the owners (stockholders) of the corporation are members of the FCU or are within the field of membership (and the FCU has the "organization of such persons" provision), it would not be eligible for membership. Obviously, if it is not a member, it could not have an account, share draft or otherwise, at the FCU. Again, if it is a member, the account should be in its name. IRS code provisions would dictate the required tax code numbers that must be used.

"4. If two of the three partners in an unincorporated business association are within the field of membership, may that business association maintain a share draft account?"

Answer 4: No, all of the owners (partners) would either have to be members or be within the field of membership for the association to be eligible for membership under the "organization of such persons" provision.

"5. Are one person businesses different from 'organizations of persons'?"

Answer 5: No. Provided the business is an independent activity, and the sole owner is within the field of membership of the FCU, the business could qualify for membership under the "organizations of such persons" provision.

Your last question, unrelated to those above is:

"Assuming business accounts exhibit a higher rate of activity, may the credit union establish a policy of larger fees for such accounts?"



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As noted in Section 701.35 of the Rules and Regulations, an FCU "is empowered to determine the types . . . of fees or charges . . . affecting the opening, maintaining, or closing of a share, share draft or share certificate account." To the extent that certain types of accounts are charged a higher fee, provided no illegal discrimination is involved, that decision is one within the discretion of the FCU's board of directors.

I hope that we have been able to assist you.

Sincerely,

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STEVEN R. BISKER
Assistant General Counsel