



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

GC/SRB:cch  
4630  
January 22, 1986

Office of General Counsel

Jerry S. Wright, Esq.  
7999 Gladys, Suite 102  
Gladys Office Park  
Beaumont, TX 77706

Dear Mr. Wright:

Your letter dated December 18, 1985, to the Federal Financial Institutions Examination Council has been forwarded to this Agency for reply. Your letter concerns those regulations of the various Federal financial regulatory agencies involving early withdrawal penalties on certificates of deposit and share certificates. You note that federally regulated banks and savings and loan associations are governed by regulations which provide for the waiver of the early withdrawal penalty in the event of the depositor's death. You are also under the belief that Federal credit unions ("FCU's") are subject to similar regulations in this regard. You state that there are FCU's in your locale that impose an early withdrawal penalty upon the early redemption of a share certificate, even where the member-depositor dies before the maturity of the certificate. You are concerned that FCU's may be violating Federal regulations or, at the least, be operating in a fashion inconsistent with other federally regulated financial institutions.

As you may know, banks and savings and loans have been subject to regulations which, among other things, require that early withdrawal penalties be imposed on premature withdrawals from CD's except in specifically noted instances (i.e., death of the depositor being one of those exceptions). In contrast, since April, 1982, FCU's have been deregulated (Section 701.35 of the NCUA Rules and Regulations, 12 C.F.R. §701.35, was substantially

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amended) with respect to share, share certificate, and share draft accounts. Specifically, as of April, 1982, FCU's were no longer required to impose early withdrawal penalties. Further, since mandated early withdrawal penalties were deregulated, the exceptions provided by regulation were no longer necessary. However, deregulation did not require that FCU's cease their practices of imposing early withdrawal penalties nor did it in any way require that FCU's permit early withdrawals upon the death of the depositor. The matter is now strictly one of contract between the member-depositor and his/her FCU.

I hope we have been of assistance. If you have any additional questions, please let me know.

Sincerely,

(S)

STEVEN R. BISKER  
Assistant General Counsel

SRB:cch

cc: Chairman, Federal Financial  
Institutions Examination Council