



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

August 7, 1986

GC/YG:sg
3320

Office of General Counsel

Terry A. Myers Esq.
35 E. Washington Street
Hagerstown, MD 21740

Dear Mr. Myers:

This responds to your letter dated June 18, 1986, concerning the maturity and dividend rate on a share certificate issued in August 1983 by your client, a Federal credit union (FCU).

According to your letter, your client issued a share certificate in the amount of \$17,000 on August 11, 1983. The stated dividend rate on the certificate was 10.8% and there was no stated maturity date. A dispute has now arisen between your client and the member as to when notice of maturity may properly be given and the dividend rate the member is entitled to.

A review of the issues in your letter leads us to conclude that the dispute is contractual in nature and should be resolved pursuant to applicable state law. Neither the NCUA Rules and Regulations nor the FCU Act addresses the issues raised in the dispute. We should point out, however, that, although a particular dividend rate is stated on the certificate, dividends cannot be guaranteed. Pursuant to Sections 116 and 117 of the FCU Act (12 U.S.C. §1762 and 1763), an FCU may not pay dividends unless, after providing for reserves, it has available current earnings or retained (undivided) earnings to declare a dividend. Therefore, there may be a time during the existence of the certificate that the stated rate cannot legally be paid.

I regret that we could not be of more assistance.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

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