



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

April 6, 1989

GC/HMU sg
6200

Office of General Counsel

Walter H. Hotz, Esq.
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Suite 150
11 La Vista Perimeter Office Park
Tucker, GA 30084

Re: Federal Credit Union Charter Conversion
(Your March 2, 1989, Letter)

Dear Mr. Hotz:

You asked if the board of directors of a Federal credit union can call a special meeting of its members to vote on a resolution the board has adopted to convert from a Federal credit union to a state-chartered credit union. According to NCUA policy on conversions, a proposal to convert from a Federal to state charter must be voted upon by the membership at an annual or a special meeting. Members must also have the opportunity to submit a written ballot prior to the meeting. Additional requirements must also be satisfied to accomplish the conversion.

BACKGROUND

A Federal credit union ("FCU") that you represent is contemplating converting to a state charter. You state that the FCU's bylaws provide that all elections will be conducted only by mail ballot. You asked if the conversion proposal is subject to the mail ballot requirement or if the FCU may hold a special meeting to vote on the proposal to convert from a Federal to state charter.

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ANALYSIS

Section 125(a) of the FCU Act (12 U.S.C. §1771(a)) addresses conversions of FCU's to state-chartered credit unions. Section 125(a) provides, in part, as follows:

(1) The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed on or before such date), by a majority of the directors of the Federal credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in bold face type state that the issue will be decided by a majority of the members who vote.

The NCUA also has written policies on conversions. Pursuant to NCUA's 1984 publication addressing conversion procedures and NCUA Form 4221 (Notice of Meeting of the Members) used for a conversion from a Federal to state charter, the FCU must hold a meeting (either annual or special) and give members an opportunity to vote on the conversion proposal at the meeting or by ballot prior thereto. A copy of the relevant portions of the 1984 publication, including Form 4221, is enclosed. For your information, the NCUA Board recently issued a proposed Interpretive Ruling and Policy Statement (IRPS) on chartering. The IRPS addresses conversions. (See 54 Fed. Reg. 12221, 3/24/89.) The requirement for the opportunity to vote on a conversion both at a meeting and prior thereto has not changed. A copy of the relevant page published in the Federal Register is also enclosed.

Walter H. Hotz, Esq.

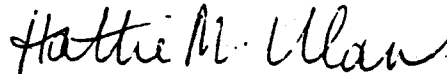
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You state that the FCU's bylaws provide that all elections will be conducted by mail ballot. We have not reviewed the FCU's bylaws. However, it is our opinion that a proposal to convert from a Federal to a state charter is not election. A meeting must be held on a conversion proposal. As stated above, pursuant to NCUA policy, members may vote at the meeting or by written ballot submitted prior to the meeting. Members must be given the option to submit a written ballot prior to the meeting date.

Additional requirements must be satisfied if the charter conversion involves elimination of National Credit Union Share Insurance Fund ("NCUSIF") coverage of accounts. (See Section 206 of the FCU Act (12 U.S.C. §1786) and Part 708 of the NCUA Rules and Regulations (12 C.F.R. Part 708).) If the state-chartered credit union plans to maintain NCUSIF coverage, an application for insurance must be filed.

Please contact the NCUA Regional Office in Atlanta to obtain additional information and the forms necessary for charter conversion.

Sincerely,



HATTIE M. ULAN
Assistant General Counsel

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Enclosures