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July 31, 1989

Mr. James R. Kirby, Jr.
7912 St. George Court
Springfield, Virginia 22153

Re: Dividends on Share Accounts (Your
April 3, 1989, Letter)

Dear Mr. Kirby:

You have asked whether it is permissible for a Federal credit union ("FCU") to pay dividends only on accounts that exceed \$505.00. An FCU may set up a special share account that requires a minimum balance in order to receive dividends. However, FCU's must offer a regular share account upon which dividends will be paid, if declared, once one full share is purchased.

BACKGROUND

The FCU has adopted a policy of only paying dividends on accounts that exceed \$505.00. In the past, the FCU paid dividends based on shares with a par value of \$5.00. You have not stated the present par value of one share.

ANALYSIS

Section 117 of the FCU Act (12 U.S.C. §1763) provides:

At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares,

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share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds \$5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.

An FCU is not required to declare dividends. In fact, dividends may only be paid if an FCU has available current earnings and/or retained earnings. As noted in Section 117, different dividend rates may be paid on different types of accounts. It is longstanding NCUA policy that dividends may be declared on one type of account (e.g., share certificate or minimum balance account) and not on another type of account (e.g., regular share account).

FCU's must offer their members a regular share account. Pursuant to Section 113(11) of the FCU Act (12 U.S.C. §1761b(11)), the board of directors shall set the par value of one share. Sections 117 and 113(18) of the FCU authorize the board to declare dividends. In a regular share account, where dividends have been declared and the par value is \$5, dividends need not be paid on all amounts greater than \$5, but only on each \$5 increment, pursuant to Section 117. If par value is greater than \$5, Section 117 requires that dividends be paid on all amounts once one full share is purchased.

As you can see from the above discussion, the board of directors of an FCU has some discretion in determining payment of dividends. Members should be fully informed of the terms of an accounts, including the FCU's dividend policies, pursuant to Section 701.35(b) of NCUA's Rules and Regulations (12 C.F.R. 701.35(b)) which provides:

A Federal credit union shall accurately represent the terms and conditions of its share, share draft, and share certificate accounts in all advertising, disclosures, or agreements, whether written or oral.

Sincerely,


for HATTIE M. ULAN
Assistant General Counsel

cc: Mr. Rick Wiedzorek, President
District of Columbia Credit Union League