



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

January 2, 1990

Office of General Counsel

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SSIC 3601
89-0902

Mr. Robert S. Bascom
Compliance Specialist
Compliance and Governmental Affairs Division
New York State Credit Union League, Inc.
P.O. Box 15021
Albany, NY 12212-5021

Re: Dividends on Share Accounts (Your August 30, 1989,
Letter)

Dear Mr. Bascom:

You have asked whether Federal credit unions ("FCU's") may maintain a dividend policy that requires a member to maintain a certain balance higher than the actual par value in order to earn dividends. Your letter was prompted by a recent opinion from this Office on a similar issue. This response modifies our prior opinion. An FCU cannot require a minimum balance in excess of par value before dividends will be earned on a regular share account. However, an FCU is not required to offer a regular share account. An FCU may offer a special minimum balance share account on which dividends will be paid on some or all of the funds in the account only if the required minimum balance is met, regardless of par value.

BACKGROUND

You enclosed a letter dated June 4, 1982, from NCUA's Region I Office stating that it is permissible for an FCU not to pay dividends on accounts with balances of less than fifty dollars. You stated that many credit unions established a dividend policy

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requiring the member to maintain a certain balance higher than the actual par value in order to earn dividends based on this letter. You stated further that many credit unions assumed that the 1982 deregulation of requirements for share, share draft and share certificate accounts included the deregulation of payment of dividends.

ANALYSIS

A regular share account is defined in Section 5150.1 of the Accounting Manual for Federal Credit Unions as one:

. . . that does not require a holder to maintain a balance greater than the par value.
. . . and that qualifies for a dividend.

Federal credit unions need not require that members open a regular share account to establish FCU membership. Section 5150.2 of the Accounting Manual for FCU's states in part:

A regular share account does not have to be established in order for a person to become a member of a credit union. The board of directors of each FCU decides what is best for the characteristics of its membership. For example, the board of directors may decide that membership qualification can be accomplished by the establishment of a regular, notice, split rate, minimum balance, share draft, or share certificate account.

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, 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. (Emphasis added.)

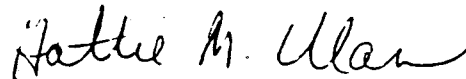
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Section 117 of the FCU Act was amended in October of 1982 (Pub. L. 97-320) by adding the final sentence (underlined portion) in the current statute. Prior to this amendment, par value was set at \$5 for all FCU's.

The letter from NCUA's Region I Office was issued prior to this amendment. As set forth in our July 31, 1989, opinion, this Office has interpreted Section 117, as amended, to state that, if par value is greater than \$5, once a full share has been purchased and dividends have been declared, dividends must be paid on the total dollar amount in the regular share account. If par value is \$5 or less, dividends may be paid on each par value increment.

In the case of special share accounts, dividends need not be paid on all funds in the account, and the FCU can set a minimum balance requirement that must be met before the account will receive dividends. Finally, although indicated otherwise in our prior opinion, an FCU is not required to offer a regular share account. However, if offered and dividends are declared, the requirements of Section 117 must be met.

Sincerely,



HATTIE M. ULAN
Associate General Counsel