



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

May 1, 1990

Office of General Counsel

Mark Welshoff, Manager
Lederle Employees Federal Credit Union
North Middletown Road
Pearl River, New York 10965

Re: Request for Interpretation of Article XXI of
FCU Bylaws (Your March 29, 1990, Letter)

Dear Mr. Welshoff:

This is in response to your request for an opinion letter to explain or interpret Article XXI of the Standard Federal Credit Union ("FCU") Bylaws. Your specific questions and our responses are set forth below.

1. On a board with nine elected positions, does approval of a change to the bylaws require the affirmative votes of two-thirds of the positions, that is six board members, or is the affirmative vote a majority of those members present (assuming a quorum) sufficient?

For purposes of Article XXI, it has long been our opinion that the phrase, "two-thirds of the authorized number of members of the board at any duly held meeting" refers to two-thirds of the absolute number of board members, rather than to two-thirds of those members present. A bylaw change by the Lederle board would require the affirmative votes of six board members. Enclosed please find a copy of an earlier opinion explaining our position on this issue.

2. Must a board member be physically present at a meeting in order to vote on an amendment change?

Article VII, Section 4 of the Standard FCU Bylaws governs board meetings. Under the standard bylaw, board members must

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be in attendance at meetings. However, the standard amendment to Article VII, Section 4 set forth in the Standard FCU Bylaw Amendments and Guidelines provides for conference call telephone meetings as an alternative to regular meetings. The second paragraph of that section states:

A regular meeting of the board as described in the above paragraph may be replaced by a conference call telephone meeting if the following conditions are met:

(a) The board must be sufficiently geographically dispersed so that the holding of a regular meeting is impracticable;

(b) A regular meeting must be convened, at a minimum, once each calendar quarter;

(c) At least seven days prior to each conference telephone call meeting, the secretary shall cause the following to be distributed to each director:

(1) Minutes of the previous meeting;

(2) Reports of officers, standing committees, or of any special committees;

(3) Special orders, or matters which have been assigned priority;

(4) Any written information or unfinished business or new business that has been given to the secretary by any director;

(d) Minutes of conference telephone call meetings must be signed by each conferee at the next regularly convened meeting of the board at which the conferee is present.

Should your board wish to adopt Article VII, Section 4 of the standard amendments, it must do so by an affirmative vote of two-thirds of its elected members, as discussed in the answer to question one above. No additional approval by the NCUA

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Board is necessary for adoption of a standard amendment. Of course, your board would have to satisfy all of the criteria set forth in the standard amendment in order to qualify to use conference telephone call meetings. Please refer to the Standard Bylaw Amendments and Guidelines for the complete provisions of Article VII, Section 4, as the exact standard wording must be used.

In the event that your board desires to make other provisions for voting by members not physically present at board meetings, such changes could be made only by means of a nonstandard amendment to the bylaws. Such an amendment must be submitted to and approved by your Regional Director before it can be effectuated. Instructions for adopting nonstandard bylaw amendments can be found at Part I, page v of the Standard Bylaw Amendments and Guidelines.

I hope that we have been of assistance.

Sincerely,



Hattie M. Ulan
Associate General Counsel

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NATIONAL CREDIT UNION ADMINISTRATION
WASHINGTON, D.C. 20456

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Kathleen O. Thompson
Federal Regulatory Counsel
Credit Union National Association
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Dear Ms. Thompson:

This is in response to your letter of April 26, 1984, concerning clarification of the language contained in Article XXI, section 1 of the Federal Credit Union Bylaws ("Bylaws").

It is our opinion that the affirmative vote of two thirds of the authorized members of the board at any duly held meeting in order to adopt bylaw amendments or request charter changes refers to two thirds of the absolute number of board members. The number of board members is specified in Article VII, Section 1 of the Bylaws. The reasoning for this interpretation is as follows: Bylaw amendments and charter changes may affect all members of the Federal credit union ("FCU"). Such changes should not be made with the vote of two thirds of a quorum (majority) of directors. This could result in major changes in policy being made by less than half of the elected members of the board of directors. We believe that the better interpretation is that bylaw and charter changes be approved of by two thirds majority of the entire elected board.

We regret any past confusion on this issue.

Sincerely,

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ROBERT M. FENNER
Director, Department of Legal Services

cc: All Regions