



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 24, 1991

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: Joint Accounts (Your December 20, 1990, Letter)

Dear Mr. Bascom:

You have asked whether a federal credit union (FCU) may require all joint account holders to be within the FCU's field of membership. Such a policy does not violate the FCU Act.

ANALYSIS

Section 109 of the FCU Act (12 U.S.C. §1759) states in part that:

. . . [s]hares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenants shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.

The joint tenancy provision was added to the FCU Act in 1946. According to the legislative history (see 1946 U.S. Code Cong. Service p. 1323, Senate Report No. 1647), it was added to permit FCUs to issue shares in joint tenancy to a member and any person designated by the member. Prior to this change, all joint owners had to be members. A rationale for this provision was to allow a family member, who was not in the field of membership, to be a joint account holder with the member. Field of membership policy now permits immediate

FOIA Vol. I Part D Shares

Robert S. Bascom
January 24, 1991
Page 2

family members to become members of the FCU in their own right. Immediate family members are defined by each FCU's board of directors and the definition is included in its bylaws (see Article XVIII, Section 2 of the Standard FCU Bylaws).

Our opinion is that the joint tenancy provision is permissive and not mandatory. It is analogous to the provision permitting FCUs to issue share drafts. Although an FCU has the statutory authority to issue share drafts to its members, an FCU may decide not to offer such accounts. Likewise, an FCU need not offer joint share accounts to nonmembers. Therefore, it is legally permissible for an FCU to adopt a policy that all joint account holders must be FCU members.

Sincerely,

Hattie M. Ulan

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Associate General Counsel

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