

May 3, 2004

William Doris, Internal Auditor  
Hanscom Federal Credit Union  
1610 Eglin Street  
Hanscom Air Force Base, MA 01731

Re: Permissibility of Requiring Joint Account Owners to Establish  
Separate Membership Accounts in Order to Be Members.

Dear Mr. Doris:

You have asked if a federal credit union (FCU) may adopt a policy requiring someone who wants to be a member to establish his or her own share account. Yes, an FCU may adopt such a policy but, if the FCU has adopted the October 1999 FCU Bylaws, it must delete the current provision addressing joint membership, which it can do without NCUA approval. We recommend as an alternative to deleting the provision that the FCU obtain approval for a bylaw amendment reflecting its policy as this is a significant condition of membership and, although not required to be in the bylaws, we think it should be.

The current FCU Bylaws provide:

Owners of a joint account may both be members of the credit union without opening separate accounts. For joint membership, both owners are required to fulfill all the membership requirements including each member purchasing and maintaining at least one share in the account.

FCU Bylaws, Article III, Section 7. This provision became part of the FCU Bylaws in October 1999. 64 Fed. Reg. 55760, 55761 (October 14, 1999). It incorporated into the Bylaws NCUA's view that a separate individual account was not required for persons to establish their membership. NCUA's view had been expressed previously in both Office of General Counsel legal opinions and a prior version of NCUA's Accounting Manual. OGC 92-0643 (July 8, 1992); OGC 93-0104 (February 1, 1993); NCUA Accounting Manual, Section 5030.1.5 (now withdrawn). Our view is that the first sentence of Article III Section 7 gives joint owners the right to be members without establishing separate accounts as long as they fulfill all the requirements for membership.

We understand that FCUs may want to require individual accounts for each member because of data processing constraints or operational issues. If an FCU has not adopted Article III Section 7 of the October 1999 version of the FCU Bylaws, it may adopt a policy requiring members to have their own individual share account to establish membership. If an FCU has adopted Article III Section 7 but wants to require members to have individual accounts to establish membership, it may delete this provision and deletion of this provision would not require NCUA approval. Nonstandard Bylaw Amendment Opinion 00-0555, dated June 14, 2000, available on the agency website, discusses deletion of this provision. We note specifically that FCUs are not generally permitted to delete FCU bylaw provisions without NCUA approval but should request approval to delete a provision in the same manner they request a bylaw amendment as provided in the Foreword to the October 1999 FCU Bylaws, available on the NCUA's website. We recommend, as an alternative to deleting the provision, that the FCU obtain approval for a bylaw amendment reflecting its policy as this is a significant condition of membership and, although not currently required to be in the bylaws, we think it should be.

Sincerely,

Sheila A. Albin  
Associate General Counsel

OGC/SAA/DMS:bhs  
04-0257