

Re: Proposed rule to reincorporate Federal Credit Union (FCU) bylaws into NCUA regulations

Dear NCUA Board Members:

Of the many challenges facing credit unions on a daily basis, lack of regulation is not one of them. The proposed rule is a solution looking for a problem, which is clearly revealed by a close reading of the rationale which was ostensibly in support of the proposed rule.

First, the Board acknowledges that the Federal Credit Union Act requires the NCUA Board to prepare bylaws that “shall be used” by the FCUs and authorizes NCUA to enforce FCU bylaws through charter suspension and liquidation. What greater authority does the Board need than this? Why intrude further in a FCU’s governance? What is the problem sought to be resolved?

Second, the Board makes effort to minimize this power grab. It asserts that this proposed regulation “imposes no new regulatory burden, as all FCUs are already required to have NCUA-approved bylaws”; that “incorporating the FCU Bylaws into NCUA’s regulations will not mean NCUA will become involved as a matter of course in bylaw disputes”; “has no intention of using agency resources to enforce every bylaw violation” and, finally, reasserts that the “NCUA already has the authority to exercise its administrative enforcement authority when a credit union violates the Act or NCUA regulations or a threat to the safety and soundness of the institution exists.”. So why does the Board now seek to incorporate all FCU bylaws into NCUA’s regulations? Is all of this just to address “**those rare cases where disputes cannot be resolved**”? Overreaction is not an overstatement in this instance.

The 1982 Board had it right to remove the Bylaws from the regulations as part of a general deregulatory effort. The NCUA has all the power it needs as it states above to address the important issues affecting FCUs. I cannot think of one post-1982 industry that was or is currently regulated in some fashion as being more regulated now than then. One has only to look at the banking, trucking, airlines, or telecommunications industries to see that the NCUA is swimming against the tide. The NCUA is already in a conflict situation as being the regulator and insurer of FCUs. This intrusion into FCUs internal governance is simply ill conceived and an overreaction to perceived problems. It should be abandoned.

Very truly yours,

John Simmonds
Chief Executive Officer