

*Chairman of the Board*

July 24, 2007

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428

RE: NCUA Proposed Changes to FCU Bylaws

Dear Ms. Rupp:

On behalf of the Board and management of Chartway Federal Credit Union, we would like to offer the following comments for the record on proposed changes to reincorporate the Bylaws into the NCUA Rules and Regulations.

### **Reincorporating the Bylaws into the Rules and Regulations**

Chartway is not in favor of NCUA reincorporating the Bylaws into its Rules and Regulations. The Bylaws should remain as the "contract" between the credit union and its members without regulatory intervention except in cases that involve violation of NCUA rules and regulations or in any way compromises the safety and soundness of a credit union. It should remain the responsibility of the Board to maintain the bylaws with proper notification to NCUA of any changes and state courts utilized when necessary for final dispute resolution and remedy between the credit union and its members.

Moreover, bylaw development, interpretation and implementation should be under the sole discretion of the credit union's Board and Management. The Mission of NCUA (as stated by NCUA) is to "facilitate the availability of credit union services to all eligible consumers, especially those of modest means, through a regulatory environment that fosters a safe and sound credit union system" Considering that mission - NCUA should not be involved in either governance or bylaw issues that do not impact the safety and soundness of the credit union.

### **Limits on What the Agency will Enforce**

Chartway again does not believe that NCUA should reincorporate the Bylaws into its Rules and Regulations, therefore no limits are necessary.

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## **Right to Enforce Bylaws based on Safety and Soundness**

NCUA should retain the authority to intervene in the event that safety and soundness becomes an issue at any credit union. This would be achieved through credit union regulatory examinations, 5300 filings, and examiner request for information, visits or audit results that identify areas of exposure, improprieties or performance issues. Through this channel, NCUA can ensure the safety and soundness of a credit union without assuming the responsibility for the maintenance or enforcement of bylaws or governance of a credit union.

## **Disputes between Boards and Members**

Disputes between Boards and members that cannot be resolved through internal procedures should then be settled or remedied through the state court system (or arbitration if agreed upon by both parties) without NCUA involvement or intervention. Assuming an agreement can not be reached internally; NCUA could participate or arbitrate only upon the approval of both parties. Otherwise, NCUA should not be involved unless a court order is invoked. We believe that credit union officials and members would be able to work together to resolve the vast majority of bylaw and governance disputes through internal processes. Again, if that is not possible, the issue would be settled through the state courts (corporate law or arbitration).

## **Disputes on Bylaw Provisions between Members and the Credit Union's Board**

It is agreed that the bylaws of a credit union should include a step by step resolution process but again, as drafted and incorporated into the bylaws by the credit union, not NCUA. NCUA may require such a provision and assist in drafting standard wording, they should not however regulate them as a part of their federal agency responsibilities. The individual bylaws of each credit union should address and incorporate the most effective and efficient means of dispute resolution, first through internal procedures, arbitration if agreeable to both parties and finally remedied through the state courts if resolution cannot be achieved.

## **Examiners Looking into Bylaw Issues**

Examiners should be used only in cases related to safety and soundness. Otherwise, examiners should be precluded from looking into bylaw issues. As noted above, NCUA may assist in drafting and requiring bylaws that address certain items related to member accounts, facilities, director elections, annual and special meetings and removal of directors and committee members or other pertinent issues, however, the overall responsibility for the bylaws remains with the credit union, not NCUA.

## **Bylaw on the Duties of Supervisory Committees in Board Succession**

We agree that the Supervisory Committee would temporarily assume the duties of the Board in the event the entire Board is removed or unable to serve. Chartway again believes that this is an issue that should be addressed and included in the credit union's bylaws - not an NCUA regulation. NCUA may assist in drafting standard language or may require that the issue be addressed in credit union bylaws. The final determination of the language and standards associated with this or any new bylaw requirement would remain the responsibility of the Board of Directors.

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## Processing of Bylaw Amendments that are Identical to Previously Adopted Amendments

Chartway believes filing identical bylaw amendments with the Regional Office is not burdensome and the 15-day response time for a decision from NCUA is considered reasonable. Again, NCUA should not be responsible for approval of the credit union bylaws but simply ensuring the documents are properly filed and maintained.

## **Standard Bylaw on Calling a Special Meeting**

A standard bylaw should be incorporated regarding requirements for calling a special meeting and include the number of members needed to request such a meeting. It should be the responsibility of each credit union Board to determine those standards whether utilizing the NCUA recommended wording or submitting to NCUA for informational purposes their own unique language regarding the bylaw requirement.

In closing, we would like to thank you for the opportunity to provide our comments and thoughts regarding the proposed changes to reincorporate the Bylaws into the NCUA Rules and Regulations. Please feel free to contact me if you need additional information or clarification on any of the issues addressed in this comment letter.

Sincerely



E. L. Gull, Jr.  
Chairman of the Board