

GC/EAW:bhs
07-0919

TO: []

FROM: Sheila A. Albin, Associate General Counsel

SUBJ: Proposed Bylaw Amendment – [] FCU

DATE: October 25, 2007

Under NCUA Delegations of Authority, Supervision 12, you have asked for our concurrence regarding a proposed bylaw amendment from [] Federal Credit Union (FCU). The proposed amendment would add a paragraph at the end of Section 2 of Article VII to impose term limits on the FCU board chair. We concur this amendment is permissible, but suggest addition of language explicitly stating an exception in case of the death, resignation or removal of the chair.

The Federal Credit Union Act and NCUA regulations do not prohibit term limits for board officers, and we have previously approved an amendment allowing a credit union to limit the term of its board chair. OGC Op. 05-0928 (Oct. 13, 2005). This proposed amendment is nearly identical to the previously approved amendment. Both amendments allow an exception to the term limit after the death, resignation or removal of the chair. The proposed amendment, however, does not explicitly state this exception, but requires an inference from the third sentence of the amendment, which states service resulting from an election to a vacancy is calculated as time out of office. Because the proposed amendment requires a three-year absence from the chair position, we think it is particularly important that the amendment state the exception explicitly, and we have inserted this language at the beginning of the second sentence.

Finally, we understand from your memorandum the FCU uses the term “executive officer” instead of the term “chair.” For this FCU, you may approve the amendment using the terms the FCU uses. For purposes of publication on NCUA’s website, we followed your approach and inserted the terms from the form FCU Bylaws in brackets so the intent of the amendment will be clear to FCUs using the standard terms. In summary, the language of the amendment we suggest is as follows:

The term of office for an individual to serve as the executive officer [chair] is limited to three consecutive one-year terms. Unless elected to fill a vacancy caused by the death, resignation or removal of the president, at least three years must pass before an individual may be re-elected to the office of executive officer [chair] and can serve once again for a maximum period of three one-year terms. Service resulting from election to a

vacancy caused by the death, resignation or removal of the executive officer [chair], or service by the assistant executive officer [vice chair] who assumes the duties of executive officer [chair] under Section 5 of this Article counts toward the required three-year break in service. Part-year terms of service as executive officer [chair] count toward the three consecutive one-year term limit.