

YOUNG, SHERON

From: _Regulatory Comments
Sent: Thursday, August 18, 2005 10:10 AM
To: YOUNG, SHERON
Subject: FW: Robert Pyfer Comments On FCU Bylaws

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-----Original Message-----

From: Robert Pyfer [mailto:pyfer@mcun.org]
Sent: Wednesday, August 17, 2005 8:58 PM
To: _Regulatory Comments
Subject: Robert Pyfer Comments On FCU Bylaws

To: NCUA Board

From: Robert C. Pyfer
SVP & General Counsel
Montana Credit Union Network

Thank you for the opportunity to comment on the proposed revised bylaws. First I want to commend the board and staff for the overall effort to simplify and clarify. The new headings will be helpful in "navigating" the bylaws; and the commentary based on NCUA opinions and policy should be very helpful for future reference.

Just a few specific comments:

Art. V, Sec. 7—Minimum Age Requirement. The current bylaw provides that the credit union will fix the voting and office holding age by board resolution but no greater than 18 years of age. The proposal simply leaves it wide open for the credit union to select an age. We support the removal of the resolution requirement. However, for clarity we would suggest the proposal state "18 years of age" or the "age of majority under applicable state law". In most if not all states, 18 is the age of majority. Many may be like Montana where adult rights are guaranteed (except for consumption of alcohol) at 18 by the state constitution. Leaving this as a simple blank may run the risk of some credit unions setting the age higher and thereby running afoul of state law. A cautionary note could also be added in commentary.

Art. VI, Sec. 4—Vacancies. The current bylaw provides that vacancies on the board or committees must be filled "within a reasonable time". The proposal would require that vacancies be filled "as soon as possible, but no later than the next regularly scheduled board meeting". While we recognize the importance of maintaining a full complement of members, in many rural areas of Montana and other states it will be very difficult to find willing and qualified people to fill the vacated position in less than one month. Occasionally, multiple vacancies occur, in which case hurried appointments could be nothing short of reckless. We recommend retaining the current language; or if more specificity is deemed necessary, we would recommend language along the lines of "as soon as possible and at or before the next regularly scheduled board meeting if practicable, or within a reasonable time under all the circumstances". While this is wordy, it would send the message of urgency without strapping a board that may find itself in a difficult recruiting position.

Art. XI, Sec. 1—Loan Purposes. The proposal would add the word "business" so the section would read "Loans may only be made to members and for provident, business or productive purposes..." This wording implies three separate, non-overlapping criteria. We suggest "provident or productive purposes, including business purposes".

Again, thank you for the opportunity to comment on behalf of the Montana Credit Union Network.