UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

xxxxx Federal Credit Union

Docket No. 99-FOM-007

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from the xxxxx Federal Credit Union (Appellant). The Region II Director denied the Appellant's applications to add four employee groups to its field of membership. It also denied the Appellant's request for reconsideration of its denial of one of the groups.

Background

Issue for Appeal

The issue in the matter of this appeal is whether Appellant met the adequate capitalization standard required for multiple common bond field of membership expansion.

Analysis and Applicable Law and Policy

Congress amended the field of membership provisions as well as several other sections of the Federal Credit Union Act (FCU Act) in August 1998 by the passage of the Credit Union Membership Access Act (CUMMA). The Board issued Interpretive Ruling and Policy Statement 99-1 (IRPS 99-1) in December 1998. IRPS 99-1 implements the changes made by CUMAA and sets forth NCUA's chartering and field of membership policy. It is hereinafter referred to as the Chartering Manual.

Section 109(f) of the amended FCU Act, 12 U.S.C. 1759(f), sets forth approval criteria for multiple common bond field of membership expansions. In order for NCUA to approve an expansion request, the credit union must, among other things, be adequately capitalized. 12 U.S.C. 1759(f)(2)(B). The Board defines adequately capitalized in the Chartering Manual as a net worth ratio of not less than 6%. See Chartering Manual at Ch.2,IV.B.2, p.2-32. Appellant's net worth ratio was below the required 6% at the time it applied to expand its field of membership. Its net worth ratio continues to be below 6%. Assuming other applicable criteria are met, the Chartering Manual allows for a field of membership expansion when a credit union has a net worth ratio of less than 6% only if the credit union is low-income or newly chartered (credit unions chartered less than ten years) and the credit union is making reasonable progress toward meeting the 6% net worth requirement. See Chartering Manual at Ch.2,IV.B.2, p.2-32. Appellant is neither low income or newly chartered (credit unions chartered less than ten years) and the credit union is making reasonable progress toward meeting the 6% net worth requirement. See Chartering Manual at Ch.2,IV.B.2, p.2-32. Appellant is neither low income nor newly chartered. Pursuant to the current Chartering Manual, neither the Regional Director nor the Board has the discretion to allow for a field of membership expansion since Appellant's net worth ratio is less than the required 6%.

Order

Based on the undisputed fact that Appellant's net worth ratio is less than 6% and Appellant is neither low income nor chartered within the last ten years, it is ordered as follows:

The Region II Director's decision denying xxxxx Federal Credit Union's applications to add four employee groups to its field of membership is upheld and the appeal is denied.

So **Ordered** this 18th day of November, 1999, by the National Credit Union Administration Board.

Hattie Ulan

Acting Secretary of the Board