

January 7, 1994

Deno Sterzinger Howard
Staff Attorney
Minnesota League
of Credit Unions
2788 East 82nd St.
Bloomington, MN 55425

Re: Membership Shares and Escheat (Your Letter of November 22, 1993)

Dear Ms. Howard:

You asked whether the par value of a federal credit union ("FCU") membership share must be escheated to the state. If required by state law, the par value of an FCU membership share must be escheated to the state. NCUA Interpretive Ruling and Policy Statement, "Examination for Compliance with State Unclaimed Property Laws," No. 82-4 (1982) (enclosed). However, even if the membership share is escheated to the state, the FCU may not close the member's account until the expiration of the time provided in Article III, Section 3 of the NCUA Standard FCU Bylaws. This section provides that a member whose share balance is reduced below the par value of one share and does not increase the balance to at least the par value within at least six months may be terminated from membership.

Article III, Section 3 applies when a member voluntarily withdraws funds so that an account is below par, but not zero. This section also applies when a member's account falls below par (whether it remains positive, reaches zero, or even becomes negative) involuntarily through the FCU's assessment of fees and charges. We note that FCUs are permitted to charge dormant account fees on member accounts, even if such dormant account fees draw the account down to a zero balance. See Letter from Steven Bisker, NCUA Assistant General Counsel, to James Brown, Esq., Brown & Brown, dated March 28, 1985 (enclosed) and Letter from Hattie M. Ulan, NCUA Associate General Counsel, to Kenneth Martin, President, Great Plains FCU, Re: Preemption of Kansas Law on Escheat of Dormant Accounts, dated October 28, 1993 (enclosed).

NCUA suggests that members be notified when their accounts are drawn to zero, or have negative balances, so that they may correct the situation before their FCU membership is terminated. At a minimum, members should be aware of the FCU's policy of closing an account when it falls below par value due to absorption through fees or charges. NCUA has recommended such disclosures under the requirement that Truth in Savings disclosures reflect the terms of the legal obligation between the member and FCU. See 12 C.F.R. ~707.3(b) and Part 707, Appendix B, ~B-6, Sample Form (Regular Share Account Disclosures), #9, Bylaw Requirements; ~B-7, Sample Form (Share Draft Account Disclosures), #9, Bylaw Requirements; ~B-8, Sample Form (Money Market Share Account Disclosures), #9, Bylaw Requirements; ~B-9, and Sample Form (Term Share (Certificate) Account Disclosures), #13, Bylaw Requirements. Please note that the mandatory effective date of Part 707 is January 1, 1995. See 58 Fed.Reg. 50394 (September 27, 1993).

Sincerely,

Richard S. Schulman
Acting Associate General Counsel

Enclosures

cc: Nicholas Veghts,

Region IV Director

GC/MEC:sg
SSIC 3320
93-1216