

June 3, 1991

Robert Wayne, Manager  
Merced School Employees Federal Credit Union  
P.O. Box 1349  
Merced, California 95341

Re: Federal Regulation of Credit Unions (Your April 29, 1991 Letter)

Dear Mr. Wayne:

This responds to your recent letter to Robert M. Fenner, NCUA General Counsel. You expressed two concerns: first, that problems in the S&L and banking industries will result in excessive federal regulation of credit unions; and second, that California's lack of a strict field of membership overlap policy will result in the dilution of your credit union's common bond to the point that Congress eliminates the credit union's tax-exempt status.

The underlying goals of NCUA's regulatory system are protection of the credit union system and safety and soundness of the National Credit Union Share Insurance Fund ("NCUSIF"). In order to achieve those goals, NCUA must regulate credit unions sufficiently to insure that they do not create an undue risk to the NCUSIF or otherwise threaten the stability of the system. In doing so, NCUA attempts at all times to strike a balance between the need for safety and soundness of the system as a whole, and individual credit unions' need for autonomy.

In some cases, NCUA regulations are congressionally mandated. In the Federal Credit Union Act, 12 U.S.C. Sections 1751 et seq. (the "Act"), Congress imposed certain requirements upon credit unions and directed NCUA to promulgate regulations implementing some of those requirements. Additional requirements have been imposed by amendments to the Act, such as those made by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183 (1989), which was in part a response to the S&L debacle and problems arising in the banking industry. If you are concerned about possible further amendments to the Act, you may wish to contact your state league or credit union trade association.

In other instances, NCUA promulgates regulations in response to safety and soundness concerns. Again, NCUA strives to maintain a balance between the goals of the system and those of individual credit unions.

We are, of course, unable to speak for the California state credit union regulator on the issue of field of membership overlap. As you are no doubt aware, NCUA's general policy is that a group of persons should be included in the field of membership of only one federal credit union, and that every effort must be made to avoid overlap. NCUA requires a federal credit union to investigate the possibility of overlap prior to requesting a charter or adding a group, and to attempt informal resolution of any potential overlap that is found to exist. In the event that informal resolution fails, an overlap is permitted only upon a showing of circumstances warranting it. In making its decision on a requested overlap, NCUA takes into account the opinion of the relevant state credit union supervisor, if applicable, and attempts to work with the state supervisor to resolve the issue. (See pp. 1-6 & 1-7 of NCUA's Chartering and Field of Membership Manual.) We would hope that state supervisors would have the same interest in consulting and working with NCUA when a state-chartered credit union threatens to overlap with a federal credit union. Unfortunately, this is a matter beyond NCUA's control.

The introduction to NCUA'S Chartering and Field of Membership Manual states:

A credit union is a member-owner, not-for-profit cooperative financial institution formed to permit those in the field of membership specified in its charter to save, borrow, and obtain related financial services. A credit union is a financial institution owned by its members. These members, who are united through a common bond, democratically manage and control a pool of capital for their mutual benefit. Member ownership and control is what makes a credit union unique.

The common bond is only one of the features that set credit unions apart from banks. NCUA's position is that credit unions are unique institutions that merit separate treatment, including continued tax-exempt status. If you are concerned about possible legislation relating to this issue, we again suggest that you contact your state league or trade association.

I hope that we have been of assistance.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

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