

August 11, 2011

The Honorable Debbie Matz, Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Dear Ms. Matz:

The American Bankers Association (ABA)¹ has become aware of four credit unions that are using a person's age as a qualifier for credit union membership. The four federal credit unions (FCUs) and their associational common bonds are:

1. CP FCU through the Golden Power Club permits anyone over the age 50 to join who lives in Jackson, Calhoun, Hillsdale, and Lenawee Counties.
2. Security Service FCU allows anyone, who pays a onetime association fee of \$1 to the 50 Plus Club, is 50 years of age and older and lives in the Texas counties of Atascosa, Bexar, Dimmit, Edwards, Medina, Real, Uvalde, or Zavala and the Colorado counties of Adams, Arapahoe, Denver, Douglas, Jefferson, Pueblo, or Southern El Paso, to become a member.
3. Suncoast Schools FCU permits individuals age 55 or older or retired to join the SSFCU Retirement Association and thus become a member of the credit union.
4. Ascend FCU through 50 Plus Club permits anyone 50 or older and living within Ascend's designated service area to join the credit union after paying a one-time membership fee of \$10.

ABA recognizes that firm precedents have been established that permit membership in a genuine advocacy or social organization, in the proper circumstances, to provide the common bond that is necessary to support an "associational" field of membership. However, we are concerned that, in some cases, membership organizations are being created for the sole purpose of manufacturing an artificial associational bond that will provide cover for an illegal expansion of a credit union's membership base. That is not consistent with law or precedent. The four cases take this false premise one more false step further.

At the four institutions identified above, the sole requirement for credit union membership is if the person belongs to an organization or club where the sole criterion for inclusion is a person's

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$13 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than \$165 million in assets. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities.

age. As you well know, age by itself (including status as a senior citizen) does not create an affiliation or common interest that is sufficient to support a field of membership at a credit union. See, *Texas Bankers Association v. National Credit Union Association*, 888 F. Supp. 184 (D.D.C. 1995). Given that age is the sole criterion for membership in each of the clubs or organizations connected to the credit unions in question, the ABA is concerned that these cases present a serious and apparently growing breach of law with regard to recognizable common bond.

The ABA requests that NCUA take all appropriate steps to end and redress this breach of allowable common-bond standards and to ensure that organizations or clubs that the NCUA approves as creating an associational field of membership actually reflect a substantial and genuine affiliation between their members, and are not simply shell organizations designed to facilitate credit union membership. In addition, we request an explanation of the NCUA's rationale for approving an associational common bond that is based on age, especially in light of the opinion in *Texas Bankers Association*.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Leggett". The signature is written in a cursive, flowing style.

Keith Leggett
Vice President and Senior Economist