

SUBJECT: Membership

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INTRODUCTION

This release applies to all credit unions, state and federal. It describes the basis for membership eligibility in credit unions and the application process. It also addresses voluntary termination as well as expulsion of members.

EXECUTIVE SUMMARY

Credit union membership is open to those with a common bond as set forth in the bylaws. The common bonds recognized under the law may be based on occupation, association, residence, employment, or membership in organizations. Membership may also be open to immediate family members, as well as organizations and public depositors (governmental units and agencies).

Under Wisconsin law credit union membership is open to those who work or live in contiguous neighborhoods, communities, rural districts or multi-county regions. However, a credit union must update its bylaws (which requires approval from the Office of Credit Unions) before it can expand its field of membership to a new geographic area.

Actual membership is conferred upon acceptance of the eligible party's application and purchase of at least one share, unless the application is disapproved. Membership grants rights to save, borrow, vote, and run for the board of directors. Joint account holders do not automatically gain membership in the credit union. They must complete a membership application and purchase one share in the credit union. Only NCUA-designated low-income credit unions can accept deposits from non-members.

Membership is terminated by the withdrawal of all shares from the credit union. The board may expel members for just cause if it has adopted a written policy in conformity with the law. This release includes a sample expulsion policy.

ELIGIBILITY

A credit union is a cooperative, non-profit corporation established to encourage thrift among its members, create a source of credit at a fair and reasonable cost and provide an opportunity for its members to improve their economic and social conditions. Membership, however, is limited to people who qualify under the credit union's bylaws (state-chartered credit unions) or its charter (federal credit unions).

A person who meets the eligibility requirement is said to be qualified as a member.

For Wisconsin's state-chartered credit unions, the possibilities for fields of membership permitted by law include:

- Groups having common or related bonds of occupation or association;
- Individuals who reside or are employed within well-defined and contiguous neighborhoods and communities (but if the Office of Credit Unions, after a credit union merger, determines that it would be appropriate, the requirement that these neighborhoods and communities be contiguous does not apply);

- Individuals who reside or are employed within well-defined and contiguous rural districts or multi-county regions;
- Employees of related or vicinal industries;
- Members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organizations; and
- Employees of the credit union. Wis. Stats. §186.02(2)(b).

Under Wisconsin law, credit union membership is open to those who work or live in contiguous neighborhoods, communities, rural districts or multi-county regions. A credit union must update its bylaws (which requires approval from the Office of Credit Unions) before it can expand its field of membership to a new geographic area. Federal credit union fields of membership are set forth in the Federal Credit Union Act § 1759 and NCUA's *Chartering and Field of Membership Manual*.

Family Members

Membership in state-chartered credit unions has long been open to the immediate family of any qualified person. Wis. Stats. §186.02(2)(c). Since 2003, the Wisconsin Statutes no longer define who is an immediate family member; however, the 2017 Model Bylaws (and earlier versions) include this definition of "immediate family." They say (in Article II, Section 6):

"Members of the immediate family" includes, but is not limited to:

- (a) The spouse, parent, children, stepparents, stepchildren, grandparents and grandchildren of each person eligible to be a member of the Credit Union under Article III, Section 1(b);
- (b) Any other relative of any person eligible to be a member of the Credit Union under Article III, Section 1(b) or of the spouse of the eligible person, if the relative resides in the same household as the person; and
- (c) Such other person as are set forth in the written policies of the board.

Credit unions may amend their bylaws to delete or change that definition (which, like any bylaw change, requires approval from the Office of Credit Unions). In addition, paragraph (c) quoted above allows the credit union to expand on the definition, adding "other persons" who would be considered immediate family members via "the written policies of the board."

Membership in federal credit unions is open to members of an eligible person's immediate family or household. Immediate family members may include a grandparent, parent, spouse, sibling, child, grandchild, stepparent, stepchild or stepsibling. See the NCUA *Chartering and Field of Membership Manual* for interpretations. Federal credit union bylaws may include a more restrictive definition of who is an immediate family member. FCU Bylaws, Article XVIII, Sec. 2.

Organizations and Associations

Federal and state rules differ on when organizations can join a credit union. For state-chartered credit unions, organizations may join if the credit union's bylaws permit, and if they qualify in one of two ways: 1) a majority of the directors, owners, or members of the organization are eligible for membership; or 2) the organization has a business location within any geographic limits of the credit union's field of membership. The organization's headquarters or principal place of business may be elsewhere, as long as it has a business location within the credit union's geographical area. Wis. Stats. §186.02(2)(d).

Check your credit union's own bylaws (Article III, Section I) to confirm that organizations are eligible to join. The state's Model Bylaws include the "business location" alternative for organization membership. The latest version of the model bylaws is available [on The League's website](#).

In federal credit unions, an organization must be composed exclusively of persons within the field of membership unless the organization is specifically named in the charter as being in the field of membership. See *ii Release No. 0161, Organization Accounts*, for more information.

Probate Estates

Wisconsin law does not address the membership requirements for establishing a probate estate account. However, in a 1992 legal opinion letter (92-0434), the NCUA explained that federal credit unions may open such an account if either the decedent or the beneficiary (or all the beneficiaries, if there is more than one) are credit union members. The membership of the personal representative is irrelevant to establishing an estate account, the NCUA said.

In 2021, The League confirmed with the Wisconsin Office of Credit Unions that they take a similar stance for state-chartered credit unions.

Trusts

Members often create revocable living trusts for tax or estate planning purposes, and then ask that their personal accounts be placed in the trust's name. Before a trust can hold credit union accounts in its own name, it must become a credit union member. This can create some difficulties.

For federal credit unions, the NCUA has taken the position that all parties to the trust (settlor(s), trustee(s), and beneficiary(ies)) must be within the credit union's field of membership. Beneficiaries include contingent beneficiaries. This makes it difficult for some living trusts to qualify for membership in federal credit unions.

Under the 2017 Model Bylaws (as well as the 2005 version) for state-chartered credit unions, "any trust may become a member of the Credit Union if a majority of the persons who are settlor(s), trustee(s) and beneficiary(ies) are eligible for membership in the Credit Union." It is unclear under Wisconsin law whether successor trustees and contingent trust beneficiaries must be counted.

Trust accounts for attorneys, real estate brokers, and collection agencies: Wisconsin statutes allow credit unions to maintain real estate broker trust accounts (under Wis. Stats. § 452.13) for brokers who are eligible for membership in the credit union; attorney trust accounts (under Wis. Stats. § 757.293) for attorneys who are eligible for membership in the credit union; and collection agency trust accounts (under Wis. Stats. § 218.04 (9g)) for persons who are eligible for membership in the credit union. For details, see The League's *ii Release No. 0176 – "Client Trust Accounts for Attorneys and Others."*

See *ii Release No. 0116 - Trusts*, and *ii Release No. 0161 - Organization Accounts*, for more information.

Irrevocable Trusts: The credit union should consult the League or its attorney to determine whether it can open an account for an irrevocable trust. If the credit union determines that it can open the account and the irrevocable trust is a testamentary trust, the credit union should obtain certified copies of the trustee's "letters of trust" from the probate court before the account is opened, or in the case of a successor trustee, before the successor trustee is given access to the account.

Unincorporated Associations

Unincorporated associations can join a credit union only if they have some sort of formal structure and if they meet one of the two qualifications described above (a majority of members being eligible for membership or a business location in the credit union's geographic area).

According to an opinion of the Wisconsin Attorney General, such organizations must have sufficient structure to hold and deal with the funds involved and to establish the association's identity before they can join the credit union. The opinion states that some sort of formal structure, such as a constitution or articles of association, is needed. (Wisconsin Attorney General Opinion OAG 31-76, May 20, 1976.)

Unincorporated associations, such as sunshine clubs and bowling teams, are usually not "formally" organized. Wisconsin Statutes lend some structure to unincorporated associations by giving them the power to sue and be sued in their own names and to hold real estate. And they may have a constitution or bylaws, though they are not required to file anything with the DFI.

Thus, it is possible, but not likely, for a bowling league or a sunshine club to be organized with enough formality to qualify for credit union membership. To find out, refer to the organization's records, such as bylaws, rules or minutes.

The same rule applies to loosely organized offshoots of larger organizations: local PTAs, scout troops, church committees, school reunion committees, etc. These organizations often handle their finances separately from their sponsors or state and national organizations. If such a group wants to open an account in its own name, it should be treated as a separate entity from its parent organization when deciding whether it qualifies for membership. If the account

is in the parent entity's name, then that entity must qualify for membership. *See ii Release No. 0161, Organization Accounts, for more information.*

Hardship Accounts

Credit unions are sometimes asked to open a special account for the benefit of a member who has suffered a serious hardship. One approach is to open the account in the name of an unincorporated association that qualifies for membership in the credit union. *See ii Release No. 0137, "Special Accounts for Hardships," for more information.*

Public Depositors

State and federal credit unions that qualify under Wis. Stats. § 34.09 may serve as public depositories. They may accept deposits from Wisconsin's state and local government units and their agencies without the governmental body qualifying as a member of the credit union. However, if the bylaws permit, a governmental body holding deposits in a state-chartered credit union may become a member, thus becoming eligible to borrow. The 2017 Model Credit Union Bylaws (and earlier versions) are drafted to permit such membership. Wis. Stats. §186.02(2)(em).

If the public depositor is not a member, however, its deposit should be documented as an interest-bearing savings instrument (a certificate of deposit), not a dividend-bearing instrument (a share certificate)

For more information, please see The League's *ii Release No. 0134 - Public Deposits*.

Other Credit Unions

State-chartered credit unions can accept deposits from other credit unions (federal or state), without the other credit union qualifying as a member. Wis. Stats. §186.113(23). Likewise, federal credit union may offer share accounts, share drafts accounts and share certificates to other credit unions, without the other credit union qualifying as a member. Federal Credit Union Act §1757(7).

As with public depositors, however, if the other credit union making the deposit is not a member, its deposit should be documented as an interest-bearing savings instrument (a certificate of deposit), not a dividend-bearing instrument (a share certificate).

APPLICATION FOR MEMBERSHIP

Any person who is eligible for membership can enroll by completing a membership application and buying at least one share in the credit union. The par value of a share is set forth in the credit union's bylaws. In no event may the par value exceed \$50 in a Wisconsin state-chartered credit union. Wis. Stats. §186.02(2)(a)2.

When a person who is eligible for membership is named as a joint account holder with a member, membership rights are not automatically conferred. Again, the membership application must be completed, and the one share purchased. The board of directors or its designee acts to approve or disapprove membership applications.

The NCUA recommends that credit unions have sound written procedures in place to identify those eligible for membership. Verification measures may include a telephone call or letter to an employer, association, or relative cited as the basis for eligibility. Verification of membership eligibility has come under closer scrutiny by examiners and bankers in recent years.

You can use the League's Membership Application Card (#81056) to document an application for membership and the credit union's approval or rejection of that application. The card may be used for natural persons (including children), businesses, organizations, or trusts. The card needs to be completed only once, when initially applying for membership.

The Membership Application Card is not an account agreement. An account agreement brochure and a separate account ownership agreement card must be used in addition to the Membership Application Card. The WCUL offers ownership agreement cards for single or joint accounts (#82024), custodial accounts (#81036), and organization accounts (#81057).

Use the Account Information Change Request card (#81034) to document any changes in information on the Membership Application Card.

See ii Release No. 0002 for information on the use of the league's Membership Application Card and other forms.

MEMBERSHIP RIGHTS

The Model Bylaws spell out the rights that credit union members have.

“Member in good standing” concept eliminated

Before 2017, the state’s Model Bylaws said that only a “member in good standing” could 1) receive notice of membership meetings, 2) vote, 3) serve as a director, or 4) hold credit union accounts.

In 2017, the Model Bylaws were revised to eliminate the “member in good standing” section, for two reasons:

- The NCUA has issued numerous legal opinions that a federal credit union cannot deprive a member of two fundamental rights – the right to vote at annual or special meetings and the right to maintain a share account – without going through the formal expulsion process. Their analysis seems sound for state-chartered credit unions, as well: They can have policies to deny certain services to members who have caused a loss or created other problems, but short of expulsion, they cannot go so far as to deny any member the basic rights to vote or to hold a share account. The League has warned credit unions that the “member in good standing” concept is a potential “compliance trap.” See The League’s *ii Release No. 0183 – “Denial of Services.”*
- Ch. 186 does not use the term “member in good standing.” There is no sound legal basis for creating a second “class” of members who are not in “good standing.” Someone is either a credit union member or not.

A credit union that has adopted the 2017 Model Bylaws can only prevent a member from voting or from holding a basic membership share account by expelling that person from membership; otherwise the credit union may not treat any member as not being in “good standing” – even (for example) a member who is delinquent on a loan or other obligation to the credit union. All members must be notified of member meetings and allowed to vote, serve as a director, or hold credit union accounts – subject to other restrictions in the bylaws. For example, the Model Bylaws say that “no member who is a natural person under the age of majority shall be allowed to vote.” Similarly, a joint account holder who is not a credit union member in his/her own right is not a “member” and has no right to vote. The Model Bylaws still set minimum qualifications for someone to be elected or appointed as a director. (Article V, Section 1.)

Members’ Inspection of Records

Under a change to Wisconsin law in 2016, a group of members of a state-chartered credit union have a right, upon petition, to inspect and copy non-confidential portions of the credit union’s accounting books and records and the minutes of credit union proceedings at member, board, and committee meetings. At least one percent of the credit union’s members, with a minimum of 20 members and a maximum of 500 members, must sign a petition requesting the records. The petition must provide certain safeguards to the credit union. Each member who signs the petition must have been a member of the credit union for at least 180 days at the time the petitioners submit the petition to the credit union. See Wis. Stats. § 186.70 for important details. This approach is similar to the NCUA rule for federal credit unions.

Loss of Qualifying Status

“Once a member, always a member” has been the policy of most credit unions for many years. Both Wisconsin and federal law ultimately leave the matter to the discretion of the board of directors. Wis. Stats. §186.02(2)(e); 2017 Wisconsin Model Bylaws (Art. III, Section 7), FCU Bylaws Article II, Sec. 5.

Termination

The Model Bylaws provide that a member who withdraws all of his or her shareholdings thereby ceases to be a member of the credit union. The 2017 Wisconsin Model Credit Union Bylaws, Article III, Sec. 3. As a practical matter, state credit unions generally deny the rights to vote and obtain credit to anyone who does not presently hold a full membership share. For this reason, many credit union data processing systems are set up to prevent the membership share from being accessed unintentionally, e.g., to cover an overdraft.

Expulsion

In Wisconsin’s state-chartered credit unions, the board of directors may expel members for failure to comply with the bylaws or Chapter 186, or for other just cause. The board of directors must adopt a written expulsion policy before it may expel members.

The Wisconsin Statutes on expulsion were amended in 2016. They require the credit union to provide the member with a written notice stating the reason for expulsion. The notice must also describe the member's right to petition the board of directors for reconsideration of the matter if requested in writing within 45 days of receipt of the expulsion notice. Upon such request, the board must reconsider the expulsion within 90 days of the date of the expulsion notice.

This statutory procedure is reflected in the 2017 Wisconsin Model Bylaws (Article III, Section 5). However, until a credit union has updated its bylaws to take advantage of the 2016 change to the Wisconsin Statutes, it must follow the expulsion provisions in its existing bylaws.

Expulsion does not relieve the member of any liability to the credit union; loans must still be repaid according to the payment schedule. Expelled members are entitled to the amounts paid in on shares, less amounts due and payable to the credit union. The latter does not include payments not yet due under loan contracts. Wis. Stats. §§186.13 and 186.14.

Federal credit unions may expel members under the procedures spelled out in Federal Credit Union Act §118 and in their bylaws. Note that the NCUA's Model Bylaws for federal credit unions (which are found in Appendix A to Part 701 of the NCUA regulations) were amended in 2023 to simplify the expulsion process.

Please also keep in mind, that if a member has federal benefits directly deposited into an account via ACH, federal rules require the credit union to give the member 30 days' notice before it can close the account (except in cases of fraud). 12 CFR 210.4.

For more information on expulsion, please see The League's *ii Release No. 0183*.

SAVER'S SWEEPSTAKES

Saver's Sweepstakes is The League's prize-linked savings program.

To open a Saver's Sweepstakes account, the primary account holder must be a credit union member with a membership share account; however, as explained in the next section of this release, designated low-income credit unions may allow non-members to be holders of Saver's Sweepstakes accounts.

The Saver's Sweepstakes account cannot be used to hold the member's share deposit – the amount (usually \$5 to \$25) that credit unions require members to keep on deposit. The Saver's Sweepstakes account must be what most credit unions would call a "sub" account.

For details, see The League's *ii Release No. 0184 – "Saver's Sweepstakes™ Compliance FAQs."*

NONMEMBER ACCOUNTHOLDERS

As a general rule, only members of the credit union may open account at and obtain services from the credit union. There are some limited exceptions, described below, allowing accounts, but not other services, to be obtained by certain nonmembers.

Nonmembers have the contractual rights of accountholders, but do not have membership rights. Nonmembers do not have the right to vote at membership meetings or the right to be elected or appointed to the board of directors.

An NCUA rule at 12 CFR §701.32 sets an aggregate limit on public unit and nonmember shares. The limit applies directly to federal credit unions and indirectly to federally insured state-chartered credit unions, as provided in 12 CFR §741.204.

Nonmember joint owners

The NCUA share insurance rules provide that a nonmember may become a joint owner with a member on a joint account with right of survivorship. The nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest. See 12 CFR §745.8(e).

Investments made by another credit union

Wis. Stats §186.113 (23) permits a Wisconsin state-chartered credit union to accept investments made by state or federally chartered credit unions. Other membership services are not available without qualifying as a member in the depository credit union's field of membership.

Low-income designated credit unions

Credit unions with a low-income designation from their primary regulator (i.e., the Office of Credit Unions or the NCUA) may accept deposits from nonmembers, without regard to the credit union's membership rules. A nonmember depositor may hold accounts at the credit union without a member as a joint owner. However, since they are not a member, they are not eligible to obtain loans or other services from the credit union independently of a member. They are not eligible to vote at credit union membership meetings and cannot be elected or appointed to the board of directors. For more information on low-income designations, see The League's *ii Release No. 0165*.

Public depositors

Unlike most organizations opening credit union accounts, a public depositor is not required to qualify for membership or deposits based on the majority of its constituents qualifying for membership in the credit union. Thus, a credit union may accept public deposits from any public depositor in the state. Most public depositors will seek to invest their funds locally if rates and other terms are competitive.

Wisconsin's state-chartered credit unions

Wis. Stats. § 186.113(20) provides authority for Wisconsin's state-chartered credit unions to act as depositories of Wisconsin state and local funds. Wis. Stats. § 34.09 provides that any federal or state credit union may be designated as a public depository if it:

- Has a branch or main office in this state,
- Complies with Wis. Stats. Chapter 34 (Public Deposits), and
- Accepts periodic payments made by state agencies by direct deposit, ACH, etc.

Qualified credit unions may accept public deposits from any unit of Wisconsin state or local government, such as the state or any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district, or any commission, committee, board or officer of any governmental subdivision of the state or any court of this state.

A public depositor does not automatically become a member of the credit union. A public depositor who makes a public deposit in a credit union may become a member of the credit union if the bylaws permit membership of public depositors.

Federal credit unions

Federal credit unions may accept public deposits from any state. A public depositor need not qualify for membership in order to place deposits in a credit union.

Federal credit unions and federally insured, state-chartered credit unions may receive public unit and nonmember shares (such as those that may be accepted by low-income credit unions) in an amount up to 50% of the credit union's net amount of paid-in and unimpaired capital and surplus less any public unit and nonmember shares, or \$3 million, whichever is greater. In addition, they must develop a plan detailing the intended use of any borrowings, public unit or nonmember shares, that taken together exceed 70% of the credit union's paid-in and unimpaired capital and surplus. They do not need to submit these plans for approval, but instead simply maintain the plans and make them available to examiners. *See 12 CFR §701.32 and 12 CFR §741.204.*

Additional information

See *ii Release No. 0134* for more information on important topics relating to public deposits, such as NCUA limitations on public deposits, federal share insurance, Wisconsin's public deposit guarantee fund, business considerations, depository resolutions, state franchise/income tax on income from public deposits (including deductions for bad debts, apportionment of income between states, and Credit Union Declaration of Exempt Status "Form CU."

EXHIBIT

Exhibit A: Sample Expulsion Policy

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

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EXHIBIT A - SAMPLE EXPULSION POLICY

(Wis. Stats. §§186.13 and 186.14)

This policy is intended as a “sample” or “guide” to help credit unions develop their own customized or individual policies. However, a policy that works well for one credit union may not be appropriate for another. Therefore, each credit union should make revisions by deleting or adding language to accommodate their own particular situation regarding technology, personnel, products and services, facilities, and other relevant factors. The credit union's policies should be reviewed for compliance with applicable rules and regulations from time to time. The League cannot guarantee that a sample policy is in compliance with the law. The policy is not intended as legal advice.

CREDIT UNION

The board of directors may expel members from this credit union on any of the grounds listed below:

- Neglect or refusal to comply with the credit union's bylaws,
- Neglect or refusal to comply with the provisions of Wis. Stats. Chapter 186, or
- Other just cause.

Upon expulsion, the credit union will provide the member with written notice stating:

- The reason for expulsion, and
- That the member has the right to petition the board of directors for reconsideration of the expulsion, if requested in writing within 45 days of receipt of the expulsion notice.

Upon such written request, the board of directors will reconsider the expulsion within 90 days of the date of the expulsion notice.

Expulsion does not relieve the member of any liability to the credit union; loans must still be repaid according to the payment schedule. Expelled members are entitled to the amounts paid in on shares, less amounts due and payable to the credit union. The latter does not include payments not yet due under loan contracts.

[Add the following if the credit union has not adopted a general nondiscrimination policy:]

This expulsion policy shall be applied without regard to race, color, religion, national origin, sex, marital status, age, disability, or any basis prohibited by law.