

SUBJECT: WCUL Share Certificate #82012

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INTRODUCTION

This release applies to all credit unions offering WCUL share certificates. The Share Certificate (#82012) is used to document a term share account. It is a traditional certificate, which must be surrendered for payment, rather than a mere receipt.

EXECUTIVE SUMMARY

This release provides an overview of the individual features of share certificates, as well as operational considerations and regulatory requirements, such as:

- Issues for the board to address as a matter of policy;
- How to safely take a pledge of a certificate account;
- How early withdrawal penalties work, and what minimum penalties are required by Reg. D.
- Special issues relating to IRA certificates;
- Requirements when advertising share certificates;
- How the Truth in Savings regulation requires staff to orally respond to rate inquiries;
- Extra Truth in Savings requirements for share certificates;
- An agreement for member's to sign when reporting a lost or destroyed certificate; and
- When to report dividends on 1099-OID rather than 1099-INT.

SHARE CERTIFICATES

What is a share certificate? It is a savings instrument issued by a credit union to a member for a specific length of time at a set dividend rate, higher than that paid on regular share accounts. A share certificate provides for a penalty if all or part of the principal is withdrawn before maturity. A credit union's share certificate is the near-equivalent to a bank's certificate of deposit, i.e. CD. But critical differences prompt the NCUA to forbid use of the terms *certificate of deposit* or *CD* in connection with dividend bearing accounts owned by credit union members. A certificate of deposit may still be appropriate in those cases where a credit union may be permitted to open accounts for non-members.

BOARD POLICIES

The policies of the credit union board of directors may address points such as the following for a share certificate program:

1. Terms of maturity to be offered
 - Minimum dollar amount for each term offered
2. Dividend rates
 - Rate-setting authority
 - Intervals when rates will be reviewed
 - Guidelines or index to be used to set rates
3. Frequency of compounding
4. Payment of dividends
 - Frequency of payment
 - Manner of payment option (paid to certificate, share account, or paid by check to member)
5. Early withdrawal penalties
 - Number of days' dividends forfeited for early withdrawal (specify for each term of maturity)
 - Whether earnings from current maturity term may be withdrawn without penalty
 - Whether dividend penalty is imposed against earnings on just the amount withdrawn or the entire principal balance
 - When penalties may be waived
6. Automatic renewals
7. Individual Retirement Accounts (IRAs)
 - Specify to what extent any of the policies vary for certificates designated as IRA accounts.
8. Additions to certificate
 - Whether the credit union will permit additional deposits into an existing certificate in mid-term
 - Minimum/maximum dollar amounts and number of additions

These issues are discussed in more depth elsewhere in this release.

ACCOUNT TERMS

Terms of Maturity

The term of maturity is the period of time the principal must be left on deposit to avoid an early withdrawal penalty.

Many credit unions offer share certificates with terms ranging from 90 days to two years. Some credit unions offer more options, ranging from seven-day to five-year terms.

The longer the term of a share certificate, the longer the credit union has use of the member's money. However, the credit union is tied into that cost of money (the dividend rate) for that period of time.

The face of the share certificate states the term as well as the issue and maturity dates of that particular certificate. A six month certificate issued on December 28, 2014 will mature on June 28, 2015. Some institutions choose to state the

term in days rather than months or years. This requires more care in determining the actual maturity date. For example, a 180-day certificate opened on December 28, 2014 will mature on June 26, 2015, not June 28.

Minimum Dollar Amounts

Share certificates are issued for any dollar amount above the minimum set by the credit union. Short-term certificates typically require higher minimum balances. Setting minimum dollar amounts too low will increase the amount of time and paperwork spent on small investments. It may also increase the amount of funds that members transfer from regular shares to get the higher certificate rates. On the other hand, don't set minimum amounts too high; consider what minimum dollar amount will be within the reach of members seeking to invest in certificates. Finally, look at what the competition is offering.

Dividend Rates

Most certificates have a fixed rate set from time to time by the board of directors. In setting the dividend rate, consider the credit union's need for money, the competition's rates, and the effect of the rate on the cost of money. Keep in mind that if certificate rates fall in the years ahead, the credit union will be saddled with the higher dividend rates to pay on those share certificates which have not yet matured.

Frequency of Compounding

With compounding, dividends are calculated on the principal balance *and* all dividends accrued to that point in time. The dividends earn dividends. The yield of a certificate with compounding is greater than the nominal rate.

Typically, dividends are compounded on at least an annual basis. Competitive pressure, member expectations, and credit union profitability may influence the credit union to compound the dividends on a semi-annual, quarterly, monthly, or even a daily basis. The more frequent the compounding is in a given period, the greater the yield. For example, a 5% dividend rate has an annual percentage yield of 5.09% if compounded quarterly, 5.12% if monthly, and 5.13% if daily.

The frequency of compounding is a decision which should be based on what prevails at local financial institutions, what is feasible for the costs of administering the program, as well as the wants and needs of the credit union membership. The frequency of compounding must be stated in Truth in Savings account disclosures.

Pledges

Language on The League's certificates makes the accounts nonnegotiable and nontransferable, except on the books of the credit union. Nonnegotiability should prevent an assignee from gaining "holder in due course" status under the Uniform Commercial Code. However, it does not necessarily bar other lenders from taking a valid pledge of the certificate. Nontransferability language is necessary to prevent the credit union from having to report the account as a nonpersonal time deposit under Reg. D.

Despite the nonnegotiable and nontransferable language typically found on share certificates, the account owner(s) can pledge the certificate with the credit union's consent. Some courts hold that a pledge is valid even without the issuer's consent. Thus, if the issuing credit union takes the certificate as a pledge, it should actually take possession of the certificate document to prevent any subsequent pledges to other lenders. Due to some court decisions, it may be necessary to also file a UCC-1 financing statement with the Department of Financial Institutions. Other required documentation includes a collateral pledge agreement and a receipt (collateral register) for the member.

Equivalent steps may be taken whenever a credit union takes a pledge of another institution's share certificate or CD. The credit union takes on risks by taking the certificate as collateral if the issuing institution does not agree to honor the pledge. There is doubt as to the outcome in any case where consent of the issuing institution is not obtained, if the certificate is not taken into possession by the lender, or if a UCC-1 is not filed with the Department of Financial Institutions.

Additions

The Truth in Savings disclosure for a share certificate must state any "transaction limitations" applicable to the account. This applies to total prohibitions of additional deposits, as well as to any restrictions on the number or dollar amount of additions.

Most credit unions do not allow a member to make additional deposits to an existing share certificate in midterm, and state so in their disclosures. The member seeking to make additional deposits must open a separate certificate account,

or cash in the certificate and buy a new one for the larger dollar amount. Of course, early withdrawal penalties discourage the latter option.

A few credit unions permit additions to be made. However, it is done within tightly controlled limits to control liquidity and the cost of funds. An unrestricted right to make additional deposits to a fixed-rate certificate would trigger large member deposits at high rates whenever market rates drop. This risk is reduced with a variable-rate certificate to the extent that rate adjustments keep up with changes in the market rates.

The League's Share Certificate (WCUL #82012) does not provide for additions to the certificate; it accommodates a fixed rate only.

Early Withdrawal Penalties

Early withdrawal penalties are imposed to discourage members from withdrawing funds prior to maturity. Some institutions freely permit withdrawal of dividends/interest, and reserve the penalty for when principal is withdrawn. The League's Share Certificate form includes a check box for the credit union to mark if it wishes to permit withdrawal of dividends earned during the current term. Dividends in the account at the time of renewal are merged with principal and are then subject to the early withdrawal penalty.

The League form also makes clear that an early withdrawal penalty may result in the forfeiture of a portion of the principal. Many institutions refrain from letting a penalty invade principal. However, in the limited circumstances where the Reg. D minimum penalties apply (below), forfeiture of some principal may be mandatory. The League's Share Certificate allows the credit union to insert any number of days' dividends as the penalty. Common penalties are 30, 90, and 180-days' dividends, depending on the term of the share certificate. Choices are provided as to whether the dividend forfeiture applies just to dividends earned on the amount withdrawn or to dividends earned on the entire balance. Under another option, the answer depends on whether the account balance is drawn below a stated minimum balance.

Keep in mind that if the penalty is imposed against the entire balance, the member needing to make a partial withdrawal may decide to withdraw the entire balance since the same penalty will apply.

An early withdrawal penalty calculation is rather simple for a fixed-rate certificate.

- First, calculate the daily rate. To do this, divide the certificate rate by 365 (or 366 in a leap year, if the certificate so provides).
- Second, multiply the results by the number of days for which dividends will be forfeited.
- Finally, multiply that result by the dollar amount to which the penalty will be applied, as stated on the certificate. Usually this will be the amount of the withdrawal. It is important to always comply with the terms stated in the share certificate.

If a credit union uses a variable-rate share certificate, the form should specify which rate will be used to calculate the dividend penalty.

Minimum Penalties Under Regulation D. Reg. D imposes two requirements for minimum early withdrawal penalties:

- Share certificates owned by natural persons or sole proprietors must have a penalty of at least seven days' dividends for withdrawals made during the first six days after an account is opened.
- Nonpersonal time deposits with maturities of 1½ years or more must have penalties of at least 30 days simple interest on withdrawals during the first 1½ years after deposit.

Reg. D permits, but does not require, these minimum early withdrawal penalties to be waived when the withdrawal is:

- Upon the death of any owner of a certificate;
- Upon the owner's disability or attaining age 59½ (in regard to an IRA or Keogh account);
- Upon the adjudication of incompetence of any owner of a certificate; or
- Within 10 days after automatic renewal of a certificate.

Harsher penalties are used to discourage early withdrawals so the credit union can safely use the funds for longer term loans and investments.

Automatic Renewal/Maturity

The vast majority of share certificates are written with an automatic renewal provision. The League's regular Share Certificate form is fairly typical. It provides for automatic renewal of the certificate (for the same term at the rate then offered by the credit union on renewed certificates of the same term and amount) at the close of business upon the next maturity date. It provides that the renewal shall not take place if:

- the certificate is presented, endorsed, and
- surrendered for payment within a ten-day grace period;
- the credit union provides timely notice of different terms and conditions for renewal; or
- the credit union provides timely notice that it elects not to renew the certificate.

Premiums

Offering premiums, in the form of merchandise, to members who open new share certificate accounts can be cost effective in attracting new investments. Traditional favorites include plush toys and small appliances. Some points to keep in mind in offering premiums include:

- The premium will be considered a bonus under Truth in Savings if the value of it and other bonuses add up to \$10 or more in a calendar year.

Account disclosures must state the amount or type of any bonus, when the bonus will be provided, and any minimum balance or time requirements to obtain the bonus. Similar information, as well as the annual percentage yield, must be stated in any advertisement that states the bonus. See *ii Release No. 0101* for more about Truth in Savings.

- The value of a bonus must be included with dividends for purposes of 1099 information return reporting.

IRAS

Only one owner can be named for an IRA account. The same holds true for Keogh or SEP accounts. The name on the certificate should be designated as "*held for the benefit of*" followed by the owner's name.

The credit union's computer system would show the member's name on the first line and a notation of the IRA status on the second line. Also, if the member grants a lien on an IRA account, the tax advantage is destroyed.

The credit union should be sure that the forms it uses for IRAs do not include any setoff or lien language, or else that they include a specific exception for IRAs. The second approach is used on the League's regular Share Certificate. Thus, while either form may be used for IRA share certificates, the IRA certificate offers more of the features commonly found in IRAs, such as optional language for a variable dividend rate and for additional deposits.

IRAs require additional agreements and disclosures, which comply with IRS rules referred to in *ii Release No. 0077*. Compliance will require the assistance of a vendor, such as TruStage.

OPERATIONAL ISSUES

Advertising

Share certificates are one of the more commonly advertised credit union products. See *ii Release No. 0124* for a description of advertising requirements that may apply. Two items, which are always applicable, are:

- Mandatory use of the NCUA "Official Advertising Statement." Various alternatives are permitted. For details, see *ii Release No. 0124*.
- Truth in Savings. The particular disclosures will depend on the advertising medium. Moderate rules apply to certain credit union newsletters and lobby signs. More apply to TV, radio, billboards, outdoor media, and telephone response machines. Other media, such as newspaper advertisements, are subject to complex rules with special details for term share accounts, such as share certificates. See *ii Release No. 0124* for details.

Oral Responses to Rate Inquiries

Truth in Savings requires particular information to be provided when giving oral responses to rate inquiries. The rule for term share accounts, such as share certificates, is different than that for non-term share accounts. The credit union must:

- State an annual percentage yield that was offered within the most recent seven calendar days (the corresponding dividend rate is optional);
- State that the yield (and rate) are accurate as of an identified date; and
- Provide a telephone number members may call to obtain current rate information.

Forms

The original share certificate is given to the member at the time it is issued. It provides the member with the legal terms of the share certificate. The Truth in Savings account disclosure, provided at account opening and upon request, is intended to simplify the basic information in a standardized manner. However, make certain the member knows the terms of the account. The extra time taken to explain the terms to the member is beneficial. It avoids confusion and misunderstanding.

The League's share certificates do not include the account owner(s) signatures on the "ORIGINAL" page of the form. This conforms to industry practice and helps to reduce the risk of a lost certificate being presented with a forged signature. The account owner(s) must sign the page labeled "CU COPY WITH AGREEMENT." The signature line includes a statement whereby the account owner(s) agree to the terms of the certificate.

In recent years many institutions have started to offer term share accounts, without certificates that must be surrendered for payment. One approach is that the blocks of text that normally appear on a certificate are printed on one sheet and the dollar amounts, dates, and other particulars are provided on a receipt. An account agreement card shows the member's agreement to the terms. This is a legitimate option to consider, with pros and cons to weigh. However, such forms are typically custom made. If taking that approach, be sure to use a compliance-oriented form provider or a qualified attorney.

Whatever share certificate forms are used, the credit union staff must be thoroughly familiar with the terms and options set forth. The certificate is a legal agreement and every term is important. If there is confusion about the meaning, consult The League or other form provider.

The League's Credit Union Share Certificate – (WCUL #82012) (rev. 9/15) (8½ x 11 inch, two 2-sided sheets), is used to certify that member funds are on deposit at the credit union payable to the named owner(s) on specified terms. The form documents the owner's agreement to essential terms such as the bylaws, setoff, type of ownership, survivorship feature, non-negotiability, POD beneficiaries, early withdrawal penalties, compounding, renewals options, TIN certification, and other issues. It does not require and should not be used with a separate account agreement card for the account suffix that is documented on this share certificate.

This is a traditional certificate form, not a mere receipt or disclosure. The printed certificate form must be endorsed and surrendered for payment. Even payout to the true owner puts the credit union at risk if the original is not surrendered to the credit union at time of payment.

Since this printed form documents an enforceable share certificate redeemable for a large dollar amount, it should be printed on security paper to reduce the risks of counterfeiting, alteration, or other fraud. Security paper may have features such as a pattern that displays the word "VOID" when photocopied.

This share certificate form consists of two distinct two-sided copies which must be duplex-printed.

- The top duplex-printed sheet is the one and only ORIGINAL, to be given to the first-named owner of the certificate. It must be signed by an authorized credit union staff member in the lower right corner of the front side. That authorized signer is issuing an enforceable instrument certifying that funds are held on deposit in the stated amount. The owner does not sign the front of this copy.

The back of the original has a signature line that the authorized number of owners must sign to endorse the instrument later when it is surrendered for payment. The owner(s) should not endorse the certificate until ready to surrender it for payment, just as they should not endorse a check until they are ready to deposit it.

- The second duplex-printed sheet is the CU COPY WITH AGREEMENT. It is nearly identical to the ORIGINAL but clearly labeled as the credit union's copy. Instead of the authorized credit union staff member signing in the lower right corner to certify that funds are on deposit, this copy requires all of the owners to sign in that corner to agree to the terms disclosed.

The back of the CU COPY WITH AGREEMENT has the spaces for the owners to certify the Taxpayer Identification Number. It has a grayed out copy of the Endorsement At Time of Surrender. The owners cannot sign this endorsement space to surrender the certificate; they must endorse and surrender their ORIGINAL certificate. That is the enforceable instrument.

Featured terms of WCUL #82012

The form has check boxes to note whether the account is an and or an or account, so the credit union knows whether to require all or only one owner to sign on the account for withdrawals, transfers, or pledges.

The form also includes a check box to the disclosure that liability for dividends terminates in the event the credit union is dissolved (Wisconsin state chartered credit unions must check this box; federal credit unions should not).

Add a clause whereby the owner consents to the credit union exercising setoff to apply funds to any obligation the owner(s) owe to the credit union. See ii Release No. B013 for important guidance for determining whether you can actually set off in a particular case. There are important conditions that must be met.

The form includes a notation before the spaces for names of POD beneficiaries pointing out that names should only be inserted if a POD ownership box is checked above. Note – a legal entity does not die, so do not allow POD beneficiaries to be named for certificates owned by entities. This includes share certificates owned by corporations, LLCs, partnerships, trusts, probate estates, cooperatives, clubs, associations, etc. Likewise, POD beneficiaries cannot normally be designated for UTMA designated accounts or guardianship accounts. [The form cautions account holders to “consult an attorney before naming minors as P.O.D. beneficiaries.” See ii Release No. 0004 for more information about minors as POD beneficiaries, including suggested language that might be used on a credit union-created addendum page to the Account Ownership Agreement to name a custodian for the minor’s funds under the Wisconsin Uniform Transfers to Minors Act.](#)

The form provides space on the first page for the title and signature of the credit union official issuing the certificate.

There is a grayed-out copy of the endorsement clause on the "CU COPY WITH AGREEMENT," but the CU must get the appropriate owner endorsement(s) on the "ORIGINAL" which must be surrendered for payment.

IRS TIN certification language is provided on the "CU COPY WITH AGREEMENT," including spaces for FATCA and Exempt Payee codes.

It has a statement informing the signer of the TIN Certification that the IRS Form W-9 with instructions is available upon request. Another statement instructing the signer to request an IRS Form W-8 (e.g., Form W-8BEN) if the account owner is not a U.S. Person.

The second sheet to this set includes the label "CU COPY WITH AGREEMENT" to draw attention that the owners are to sign in the lower right corner of sheet to agree to the terms of the certificate and that this copy is to be kept by the credit union (no separate signature card is needed with this certificate form),

Completing the League’s Share Certificate Form (WCUL #82012)

When the terms of the certificate are filled in at account opening, complete the first and second sheets identically except for the following:

- One owner certifies the appropriate Taxpayer Identification Number on the back side of the CU COPY WITH AGREEMENT.
- The Credit Union's authorized signer signs the ORIGINAL in the lower right corner. This makes the original an enforceable instrument.
- Do not complete the Endorsement At Time Of Surrender section at account opening.

At the time payment is requested, the ORIGINAL must be endorsed and surrendered. It is much like a live check that must be presented for payment.

Original certificate must be surrendered for payment

Since the Original certificate is an enforceable obligation of the credit union, redeemable for cash, do not print an extra Original for the member(s).

As with most traditional share certificates and certificates of deposit, the language requires that the Original certificate must be properly endorsed and surrendered for payment, because the certificate is an instrument (as is a check). Failure to obtain surrender of the certificate when paying out even to a rightful owner exposes the credit union to the risk of having to pay out again if the Original is later presented for payment by another owner or heir.

When an owner claims the original certificate is claimed to be lost, stolen, or destroyed, be sure to get all owners to sign a Certificate of Lost Instrument.

If an owner claims that the original is unavailable because it was lost, stolen, or destroyed, the credit union should protect itself by requiring:

1. An affidavit of lost, stolen, or destroyed share certificate signed by all owners – even if the terms of the certificate normally allow any one owner to surrender the certificate. The affidavit should normally include an indemnification agreement, and
2. If desired by the credit union, an indemnity bond to cover the risk of the credit union being required to pay out again by a party presenting the original certificate.

Credit unions should consider retaining an affidavit of lost, stolen, or destroyed certificate as a permanent record, since a certificate might be found and presented for payment decades later, long after normal retention periods for share certificate documentation.

Share Certificate is not a CD

Please note that although a share certificate issued to a member functions much like a certificate of deposit, the NCUA does not allow the two to be confused. A share certificate is issued to a member, pays dividends rather than interest, and represents owners' equity (shares) in the credit union rather than a debt. The NCUA's commentary to the Truth in Savings rule says: "[T]he term 'certificate of deposit' or 'CD' may not be used to describe share certificates and other dividend-bearing term share accounts."

Truth in Savings

This share certificate does not include a Truth in Savings disclosure. See *ii Release No. 0101* for Truth in savings disclosure requirements.

Use of WCUL fillable .pdf forms

Credit unions may use the fillable .pdfs on their desktops or have them mapped to their data processing systems. It is up to the credit union to forward their licensed .pdf files to the data processor, if they choose, for installation and mapping for use on the credit union's system. *Your data processor will not have the forms until you forward them!* Credit unions may also share this Compliance Courier with their data processor if doing so will aid in mapping fields.

Laser forms should be printed and reviewed for proper display. Compare printouts of the installed forms to the final proofs available through the links above.

Please keep in mind that the license for WCUL forms permits use of the same .pdf files for manual completion on a desktop. This may be a valuable option during the time it may take for a data processor to map the fields when putting an updated form on the system.

As with paper loan and account agreements, electronic copies cannot be legitimately altered after the member/owner(s) sign them. If members wish to change ownership, beneficiaries, or any other terms they *must* sign new documentation. New terms require new signatures by all owners.

*Please address form order questions to **Jeff Bonk** at 800-242-0833, ext. 4053, and questions about completion of the forms and compliance to **the Compliance Hotline** at (608) 640-4050.*

Important reminders

Please keep in mind that WCUL forms are designed for use in transactions subject to Wisconsin law and applicable federal law.

Please remember that the forms you use are important legal documents. Credit unions are responsible for reviewing forms to determine that they are appropriate for the transaction. Users should read and become familiar with the terms of each form they use and how they must be completed in compliance.

Data processing must be consistent with the terms spelled out in the agreement, as they set the terms of the legal obligation agreed to by the parties.

Ownership

As with regular share accounts, a share certificate may generally be designated as a single or joint. An exception is for IRA, Keogh, and SEP accounts, which may only have one owner named. Also, marital accounts may only be used in Wisconsin only by a husband and wife.

Unless the credit union's data processing system lacks the capability, a member can have a jointly-held share certificate issued to himself and another person even though his share account is a single account. Furthermore, he could also have a share certificate issued jointly with someone other than the joint owner of his share account.

The disposition of the share certificate upon the death of any account owner should be handled just as for a share account. See *ii Release No. 0004*. Typically, there is no penalty imposed for the early payout of the share certificate upon the death of an owner.

The terms of The League's regular Share Certificate permit the credit union to clearly specify whether a joint account is an "and" or an "or" account. The terms also spell out that "or" accounts need the signature of any one owner to authorize a withdrawal, transfer, or pledge of the account. An "and" account requires all owners to sign for these actions.

Do not pay out on a share certificate without surrender and endorsement of the ORIGINAL instrument.

Account Disclosures (Truth in Savings)

The NCUA's Truth in Savings rules for account disclosures have special twists for share certificates and other term share accounts. Some highlights are discussed below, but see *ii Release No. 0101* for details.

- In disclosing the dividend rate and annual percentage yield, the credit union must state the most recent rate or the prospective rate, using those terms. For share certificates a specific rate is contracted, so it is appropriate to disclose the prospective rate.
- Most share certificate programs do not permit additional deposits to the certificate. If this is the credit union's policy, it must be disclosed as a transaction limitation in account disclosures.
- Account disclosures must include the following extra items in regard to term share accounts:
 - Time requirements;
 - Early withdrawal penalties;
 - Withdrawal of dividends prior to maturity;

Most credit union share certificates feature compounding of dividends, but allow the member to withdraw dividends prior to maturity. The credit union would disclose that the annual percentage yield disclosed assumes that dividends remain in the account until maturity and that a withdrawal will reduce earnings.

 - Renewal policies.
- Bonuses are sometimes given in the form of a premium when a large dollar share certificate is opened. If the value of bonuses in a year is more than \$10, disclose the amount or type of the bonus, when it will be provided, and any minimum balance or time requirements.
- The "nature of dividends" disclosure line is not required for share certificates or other term share accounts.

The share certificate does not serve as its own Truth in Savings account disclosure.

Dividend Computation

Care must be taken to compute dividends in a manner permitted by Truth in Savings (*ii Release No. 0101*). The credit union must pay dividends on the full amount of principal in the account for each day by use of either the daily balance method or the average daily balance method. The credit union must calculate dividends by use of a daily rate that is at least 1/365 of the dividend rate. In a leap year, 1/366 may be used. The credit union must compound and credit dividends as provided in the share certificate and Truth in Savings disclosures. The credit union should ensure that its share certificate forms, as well as its computation methods, are consistent with these rules.

Renewal/Maturity Notices

Wisconsin Office of Credit Union regulations no longer impose renewal notice requirements. Instead, credit unions must comply with the NCUA's Truth in Savings requirement for renewal and maturity notices. For details, see The League's *ii Release No. 0101*.

Endorsement at Time of Surrender

An original share certificate will traditionally have an endorsement line on the reverse side that is required to be completed upon surrender of the certificate. Tellers must carefully check the signature of the party surrendering the share certificate against the member signature on file, to minimize the risk of fraud.

Lost or Destroyed Certificates

If a member's original share certificate is lost or destroyed, the member (and all other account owners) should be required to sign a statement similar to the following in order to obtain a duplicate:

(I) (We) certify that Share Certificate #_____, originally issued by _____ Credit Union ("credit union") on _____, 20____, has been lost or destroyed and request that the credit union issue a duplicate certificate carrying the same maturity date, dividend rate and all other terms as the original. In consideration thereof, (I) (we) agree to the cancellation of the original certificate and further agree to indemnify and hold credit union harmless from any loss or damage incurred by it resulting, in whole or in part, from loss of the original document or issuance of a duplicate certificate.

The agreement would be held at the credit union for its records. A new share certificate marked "duplicate" should then be issued and a record made of the cancellation of the original document. Tellers redeeming share certificates should always check the list of those cancelled prior to making a payout. This procedure will insure that a share certificate is not redeemed by an unauthorized person who has obtained possession of it. Of course, no credit union should redeem a share certificate for anyone other than the member(s) to whom it was issued.

In following this procedure, be alert for signs of fraud. In one case, a credit union had mailed a certificate maturity notice to someone who had the same name as the credit union member. The person who received the notice decided to pose as the member. She appeared at the credit union with the correct account number, maturity date, and identification with the

same name as the member, and successfully claimed the funds. (Consider whether your credit union would have examined the signature closely enough to detect the fraud.)

Tax Reporting: 1099-INT or 1099-OID

Dividends on share certificates are subject to the information return reporting requirements of the IRS. Unfortunately, reporting can be more complicated for share certificates than for regular share accounts. This is because the IRS does not want taxpayers to defer income until the maturity of a long term certificate. For long-term share certificates (those with a maturity greater than one year), dividends are reported in the year of accrual, as opposed to the usual practice of reporting in the year the dividend is paid.

IRS Form 1099-OID is used to report the dividends *accrued* on long-term certificates. IRS Form 1099-INT is used to report dividends *paid* on short-term certificates (with a maturity of one year or less).

For either form, aggregate the dividends for the year and file the form if the total is \$10 or more. Thus, if the total of all dividends paid on Susan Nelson's shares and her short-term share certificates is \$10 or more, report that amount on one

1099-INT. If the total of dividends accrued on all of her long-term certificates is \$10 or more, report that amount at year-end on one 1099-OID.

Early Withdrawal Penalties. When aggregating dividend totals, do not reduce the amount by any early withdrawal penalties that were imposed. A separate box is provided on both the 1099-INT and the 1099-OID form to report forfeited “interest” or principal.

Premiums. As with share accounts, the value of any premium gifts given to members for opening a share certificate account is counted as interest for IRS information return reporting.

See *ii Release No. 0130* for more information on IRS returns.

Record Retention

Many Wisconsin state-chartered credit unions follow the retention periods set out in the technical publication of the of the Financial Managers Society, Inc. of Chicago, Illinois, titled “Financial Institutions Record Retention Manual.” For more information on that manual, visit www.fmsinc.org.

Bank Secrecy Act. The Bank Secrecy Act requires the credit union to keep the following records for five years:

- A record of the name, address, taxpayer identification number (TIN), if available, of the purchaser of each share certificate, as well as a description of the instrument, a notation of the method of payment, and the date of the purchase;
- A record of the name, address, and TIN, if available, of the person presenting the certificate for payment. To the extent that this information is readily available from other credit union records for the five year period, no additional record need be created. Any currency transaction report (CTR) that is triggered by the purchase or redemption of a share certificate involving over \$10,000 in cash must also be retained for five years.

Truth in Savings. Truth in Savings requires the following records to be kept for two years after they are provided:

- Account opening and “provided upon request” disclosures;
- Maturity, renewal, and change of terms notices;
- Advertisements.

It is not necessary to keep a copy of each and every disclosure. Microfilm, microfiche, computer files, and other retention formats are permitted if they permit the credit union to reconstruct the required record.

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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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