



## ***DCU BULLETIN***

***Division of Credit Unions***

***Washington State Department of Financial Institutions***

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No. B-02-04

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### **Division Distributes “Clean” Version of New FOM Rules**

We understand that many of you have had difficulty in reading and understanding the “marked-up” version of the new FOM rules included with our Bulletin No. B-02-03. (To make it even more difficult, pages 5 and 6 of the marked-up version were inadvertently switched.) To help in this regard, we have attached a “clean” (but unofficial) version of the new rules. The official Code Reviser version should be available by March 8, 2002.

We want to remind you that the Division has scheduled the following technical assistance sessions to explain how to comply with the new FOM rules:

March 12, 2002	Yakima	Catholic Credit Union	1:00 - 3:00 p.m.
March 19, 2002	Spokane	Numerica Credit Union	10:00 a.m. – Noon
March 28, 2002	Federal Way	Washington CU League	10:00 a.m. – Noon

Please RSVP with the number of attendees to Tina Philippsen at (360) 902-8718 or by e-mail at [tphilippsen@dfi.wa.gov](mailto:tphilippsen@dfi.wa.gov) by March 4, 2002.

**CAUTION:**

**THIS DOCUMENT IS AN UNOFFICIAL VERSION OF THE NEW FOM RULES  
ADOPTED BY THE WASHINGTON STATE DIVISION OF CREDIT UNIONS (DCU) .**

**THE OFFICIAL VERSION SHOULD BE AVAILABLE BY MARCH 8, 2002.**

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Chapter 208-472 of the Washington Administrative Code (WAC) contains all of DCU's field of membership rules. Effective March 8, 2002, Chapter 208-472 WAC is amended to read as follows, in its entirety:

Chapter 208-472 WAC

CREDIT UNION FIELD OF MEMBERSHIP

**WAC 208-472-010 Authority.** A credit union may admit to membership those persons qualified for membership who are within its field of membership as stated in its bylaws. A credit union may amend its field of membership bylaws to add one or more occupational groups, associational groups and communities to its field of membership, as approved by the director pursuant to this chapter. The FOM groups may be located inside or outside the state.

The director may waive any provision of this chapter as the director deems appropriate to facilitate credit union service to low and moderate income persons.

In addition to the field of membership powers or authorities reflected in this chapter, a credit union has the field of membership powers and authorities granted pursuant to RCW 31.12.40

**WAC 208-472-015 Definitions.** Unless the context clearly requires otherwise, as used in this chapter:

(1) "Affiliate" of an enterprise or organization means a person that controls, is controlled by, or is under common control with, the enterprise or organization. "Control" means twenty-five percent or greater stock ownership.

(2) "Associational group" is a group with a common bond of association related to membership in an organization, or a portion of such a group. The organization must satisfy each of the following criteria:

(a) The organization's primary purpose must be other than providing eligibility for credit union services;

(b) The organization's membership must be primarily composed of natural persons; and

(c) The organization's organizational documents must define membership eligibility.

In regard to an associational group within a credit union's FOM bylaws, the credit union may admit to membership:

(i) Members of the organization;

(ii) Directors, employees, volunteers and retirees of the organization or its subsidiaries or affiliates;

(iii) Natural persons under contract to work for the organization or its subsidiaries or affiliates;

(iv) Family members (as determined by the credit union) of any of the above-described natural persons;

- (v) The spouse of any of the above-described natural persons if the person qualified for membership at the time of his or her death;
- (vi) The organization and its subsidiaries and affiliates;
- (vii) Organizations and enterprises more than half of whose owners, members or employees are eligible to be members of the credit union; and
- (viii) Other persons approved by the director.

Students of a school, college or university are deemed to be members of an organization that constitutes an associational group. In regard to such an associational group within a credit union's FOM bylaws, the credit union may admit to membership the students of the school, college or university as well as the family members (as determined by the credit union) of the students.

(3) "CAMEL" means the CAMEL rating system used by the division, or a successor rating system used by the division.

(4) "Community" is a well-defined geographic area that is recognized by those who live or work there as a neighborhood, community, or rural district, or a portion of such an area.

In regard to a community within a credit union's FOM bylaws, the credit union may admit to membership:

(a) Natural persons who live, work, worship or go to school in the community;

(b) Enterprises and organizations that have offices within the community, and natural persons under contract to work for the enterprises or organizations;

(c) Directors, employees, volunteers and retirees of the above-described enterprises or organizations;

(d) Family members (as determined by the credit union) of any of the above-described natural persons;

(e) The spouse of any of the above-described natural persons if the person qualified for membership at the time of his or her death;

(f) Enterprises and organizations more than half of whose owners, members or employees are eligible to be members of the credit union; and

(g) Other persons approved by the director.

(5) "Credit union" means a credit union organized (or chartered) and operating under chapter 31.12 RCW, and an out-of-state or foreign credit union operating in this state in accordance with RCW 31.12.471.

(6) "Director" means the director of financial institutions.

(7) "Division" means the division of credit unions of the Washington state department of financial institutions.

(8) "FOM" means field of membership.

(9) "FOM groups" includes occupational groups, associational groups and communities.

(10) "Occupational group" is a group with a common bond of occupation related to employment by, or work for, an enterprise, or a portion of such a group. The group must be primarily composed of natural persons.

In regard to an occupational group within a credit union's FOM bylaws, the credit union may admit to membership:

(a) Employees of the enterprise;

(b) Directors, employees, volunteers and retirees of the enterprise or its subsidiaries or affiliates;

(c) Natural persons under contract to work for the enterprise or its subsidiaries or affiliates;

(d) Family members (as determined by the credit union) of any of the above-described natural persons;

(e) The spouse of any of the above-described natural persons if the person qualified for membership at the time of his or her death;

(f) The enterprise and its subsidiaries and affiliates;

(g) Enterprises and organizations more than half of whose owners, members or employees are eligible to be members of the credit union; and

(h) Other persons approved by the director.

(11) "Primarily" or "primary" means more than one-half.

(12) "Qualified associational group" means an associational group located wholly or partly in the state. However, if the members of the organization in Washington exceed 6,299, the group will not be considered qualified unless the group is within the FOM bylaws of another credit union or federal credit union.

An associational group that does not satisfy this definition is considered to be a nonqualified associational group.

(13) "Qualified community" means a community in the state that constitutes a:

(a) School district;

(b) City; or

(c) County with a population of no more than 75 people per square mile.

A community that does not satisfy this definition is considered to be a nonqualified community.

(14) "Qualified occupational group" means an occupational group located wholly or partly in the state. However, if the members of the enterprise in Washington exceed 6,299, the group will not be considered qualified unless it is within the FOM bylaws of another credit union or federal credit union.

An occupational group that does not satisfy this definition is considered to be a nonqualified occupational group.

(15) "SOG" means a small occupational group added pursuant to a SOG enabling amendment approved by the director prior to March 8, 2002.

**WAC 208-472-020 FOM bylaws; addition of FOM groups.** (1) General. Each credit union must keep its FOM bylaws substantially in the form of the model FOM bylaws prescribed by the division. Credit unions that have not converted to the model FOM bylaws prior to March 8, 2002 must do so by December 31, 2002. Each credit union must maintain accurate, complete and up-to-date FOM bylaws.

(2) CAMEL 1s and 2s.

A credit union rated a composite CAMEL 1 or 2 by the division:

(a) May add qualified occupational groups, qualified associational groups and qualified communities to its field of membership bylaws if the credit union satisfies each of the following:

(i) If the FOM group has more than 500 employees, members or residents, as applicable, in Washington, the credit union has, before its board of directors approves the amendment, mailed or otherwise provided notice of the addition to each credit union and federal credit union headquartered in the county(ies) in Washington in which the FOM group is primarily located; and

(ii) The credit union's board has approved the amendment, which names the underlying enterprise, organization or community, as applicable, and indicates the date that the board approved the amendment.

Additions made in accordance with this subsection (2)(a) are deemed approved by the director; and

(b) May not add nonqualified occupational and associational groups and nonqualified communities to its field of membership bylaws without the prior approval of its board of directors and the prior written approval of the director under WAC 208-472-025.

(3) CAMEL 3s, 4s and 5s. A credit union rated a composite CAMEL 3, 4 or 5 by the division may not add the following FOM groups to its field of membership bylaws without the prior approval of its board of directors and the prior written approval of the director under WAC 208-472-025:

(a) Occupational groups, except for SOGs;

(b) Associational groups; and

(c) Communities.

In general, the director will not approve:

(i) The addition of a community to a credit union's bylaws if the credit union is rated a composite CAMEL 3 by the division; or

(ii) The addition of an occupational or associational group or a community to a credit union's bylaws if the credit union is rated a composite CAMEL 4 or 5 by the division.

(4) Other changes. A credit union may, upon approval of its board of directors, amend its FOM bylaws to:

(a) Delete exclusionary clauses;

(b) Delete FOM groups that no longer exist;

(c) Delete its SOG enabling amendment;

(d) Revise its SOG enabling amendment to delete the SOG requirements other than the limitation on the number of employees, which is 500 per SOG;

(e) Aggregate communities into a larger community. For example, if a credit union has added each of the school districts within a county as communities, it may amend its FOM bylaws to designate the county as a community rather than listing each of the school districts as a community; and

(f) Make nonsubstantive changes.

The board may delegate the authority to delete FOM groups that no longer exist.

In amending its FOM bylaws under this subsection (4), other than deletions, the credit union must indicate in its bylaws the date that the board approved the amendment.

(5) A person that is a member of a credit union may continue to be a member even though the person is no longer within the field of membership bylaws of the credit union, subject to the credit union's right to terminate the person's membership. The family members (as determined by the credit union) of a credit union member continue to be eligible to join the credit union, even though the credit union member is no longer within the FOM bylaws of the credit union.

**WAC 208-472-025 Application for addition of FOM groups--Approval of director.** In order to request the approval of the director to add an FOM group to its bylaws under WAC 208-472-020 (2)(b) or (3), a credit union must submit a written application in duplicate to the director. The application must include the following items, and any other information and materials requested by the director:

(a) The name of the FOM group that the applicant desires to add to its bylaws;

(b) A copy of the resolution of its board of directors approving the bylaws amendment, certified by the board chairperson or secretary;

(c) A detailed description of the FOM group, including, but not limited to, location and number of employees, members or residents, as applicable, with supporting documentation;

(d) An explanation how the FOM group satisfies the definition of such a group in WAC 208-472-015;

(e) If the applicant is applying to add an associational group, an explanation of the qualifications for membership in the organization, and a copy of the organization's organizational documents;

(f) An explanation how the addition of the FOM group will affect the financial condition of the applicant. In addition, if the applicant is applying for a community, three year pro forma income statements and balance sheets and key ratios (including, but not limited to, return on average assets, net worth, asset growth and share growth);

(g) If the applicant is applying to add a nonqualified occupational or associational group in excess of 6,299 employees or members, as applicable, a reasoned justification why the group does not have sufficient size or resources, including individual and sponsor support, and financial, physical and human resources, to support a viable credit union of its own; and

(h) If the group has more than 500 employees, members, or residents, as applicable, a statement that the applicant has mailed or otherwise provided notice of the application to each credit union and federal credit union headquartered in the county(ies) in Washington in which the FOM group is primarily located.

The director may waive any of the items in this subsection as the director deems appropriate, such as in the case of the addition of FOM groups located wholly out-of-state.

(2) An application filed pursuant to subsection (1) of this section is deemed complete when the director has received all of the information required by subsection (1) of this section. If an incomplete application is received, the director will give written notice to the applicant no more than thirty days from the date the original application was received that additional information is necessary. The applicant will be allowed thirty days after receipt of the notice to provide the requested information. If the applicant fails to do so, the director will return the application and it will be deemed withdrawn.

(3) The director will give the applicant written notice of approval or denial within thirty days after the application is deemed complete. The director's determination whether to approve an application will be based on consideration of the safety and soundness of the applicant and the applicant's compliance with this chapter.

(4) To add a separate FOM group located wholly out-of-state to its field of membership bylaws, a credit union should first contact the director to determine how to proceed with the application to the director and whether the credit union is required to file an application or notice with the credit union supervisory authority in the other state.

**WAC 208-472-030 Direct marketing restriction.** A credit union may not conduct direct marketing targeted primarily at the persons in an occupational or associational group unless:

(1) The group was included in the FOM bylaws of the credit union prior to March 8, 2002. An occupational or associational group is "included" in the FOM bylaws of a credit union if the underlying enterprise or organization, as applicable, is named or within an industry described in the credit union's FOM bylaws. A group that does not satisfy the prior sentence, but that is within a community in a credit union's FOM bylaws, is not considered "included" in the FOM bylaws of the credit union; or

(2) A management official of the underlying enterprise or organization has provided the credit union with a written statement, signed by the official, that the group desires service by the credit union.

**WAC 208-472-035 Application of chapter.** (1) This chapter also applies to the conversion of an out-of-state, foreign or federal credit union to a credit union chartered and operating under chapter 31.12 RCW.

(2) This chapter does not apply to mergers where the continuing credit union is organized (or chartered) and operating under chapter 31.12 RCW. The continuing credit union may amend its FOM bylaws to add the FOM groups of the merging credit union.

(3) This chapter does not restrict FOM groups added to a credit union's bylaws prior to March 8, 2002.

2/14/2002