



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

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4693  
6/28/85

Mr. James M. Shelton  
President  
The Bankers Institute  
21 Tamal Vista Boulevard  
Corte Madera, CA 94925

Dear Mr. Shelton:

This is in response to your letter to Mr. Callahan of June 4, 1985, concerning three issues of credit union involvement in the travel business.

One point of clarification is necessary before responding to your questions. The National Credit Union Administration (NCUA) regulates federally chartered credit unions and insures some state chartered credit unions. This response only applies to federally chartered credit unions (FCU's). Information concerning the authority of state chartered credit unions must be obtained from the appropriate state regulatory agencies.

The first question you ask is: Are there regulations from the NCUA that would prohibit a credit union from owning or operating a travel agency? FCU's are authorized to engage in only those activities that are either expressly granted by the FCU Act or incidental to an express power (See Section 107 of the FCU Act, 12 U.S.C. §1757). FCU's are not expressly granted the authority to own or operate travel agencies. Further, case law involving the incidental powers of national banks and Federal credit unions supports the conclusion that FCU's do not have the authority to own or operate a travel agency.

While FCU's do not have the authority to directly own or operate a travel agency, the issue of whether they can indirectly do so is currently being reviewed. This issue is being considered in the context of the proposed revisions to NCUA's credit union service organizations (CUSO's) regulation (Section 701.27 of the NCUA Rules and Regulations, 12 C.F.R. §701.27). This regulation implements the authority of FCU's contained in Sections 107(5)(D) and 107(7)(I) of the FCU Act (12 U.S.C. §§1757(5)(D) and 1757(7)(I)) to make investments in and loans to CUSO's. There has been some controversy involving the present CUSO regulation as to whether CUSO's may engage in the travel agency business. In order to clarify what are permissible CUSO activities as well as other CUSO issues, NCUA staff is currently preparing a new proposed CUSO regulation to be presented to the NCUA Board and, if approved, published for public notice and

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comment. It is hoped that a revised final rule will be issued within a few months after the proposed rule. Until that time, NCUA has adopted an informal policy that CUSO's already offering travel services may maintain their status quo. However, no new travel services can be started at this time.

Another way that FCU's can presently offer travel services to their members is through a third party vendor. Part 721 of the NCUA Rules and Regulations (12 C.F.R. Part 721) allows FCU's to offer group purchasing plans of third party vendors to their membership. FCU's may perform administrative services for the vendors and be reimbursed by the vendor for the cost of providing such administrative services. However, FCU's are prohibited from profiting from the travel services offered to their membership through a third party vendor.

The second question you ask is: Can credit unions lease space in their offices to an independently owned third party travel agency? According to Section 107(4) of the FCU Act, 12 U.S.C. §1757(4), an FCU can purchase, hold and dispose of property necessary or incidental to its operations. It has been our longstanding policy that FCU's have limited authority to lease space to third parties. An FCU may only acquire and hold property that it may reasonably be expected to utilize itself in the short-term future. An FCU does not have the authority to invest in real estate for profit or to be in the business of leasing property. However, there are situations where an FCU has acquired space for future expansion that is not being used. This space can be temporarily rented to other parties. This question must be dealt with on a case-by-case basis. If property is to be leased, it must be done at arms length. If a business, such as a travel agency, is leasing space in an FCU office, it must be made clear to the FCU members that the travel services are not being offered by the FCU.

The third question you pose is: Does a credit union need approval from NCUA to undertake any of the above operations? If so, what procedure should they take? Except as otherwise noted above, NCUA approval is not required.

I hope that we have been of assistance.

Sincerely,

STEVEN R. BISKER  
Assistant General Counsel

cc: NCUA Secretary