



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

OFFICE OF GENERAL COUNSEL

*GC/HMU:cek*  
*3800*  
*April 23, 1986*

Jeffrey K. Haynes, Esquire  
Vanderkloot & Haynes  
Post Office Box 980  
Bloomfield Hills, MI 48013

Dear Mr. Haynes:

This is in response to your letter concerning whether certain services, as described below, can be offered by a Federal credit union (FCU), a credit union service organization (CUSO), or both, to other FCU's.

Your first question is whether an FCU can provide other FCU's with certain services and activities under Section 701.26 of the Regulations. Section 701.26 does not authorize an FCU to personally provide services and activities to other credit unions. Rather, the services and activities are to be provided by third parties with whom the FCU contracts.

Section 701.26(a) of the NCUA Rules and Regulations (12 C.F.R. §701.26(a)) provides as follows:

"A Federal credit union may act as representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall be subject to examination by the NCUA Board to the extent provided by law."

This regulation authorizes an FCU to contract for assets or services which are related to its daily operations. The regulation was intended to cover an FCU's contracts with third party vendors and other organizations offering services to credit

*FOIA file: Vol. II, H. Incidental Services*

Jeffrey K. Hayes, Esq.

April 23, 1986  
Page Two

unions. (See the preamble to final rule, 47 F.R. 30460, 7/14/82.) The regulation also allows one FCU to represent other credit unions in contractual arrangements with a third party and authorizes the sharing of fixed assets. This regulation was not intended to authorize an FCU to personally provide various services and activities to other FCU's. Such authority was not a part of the three regulations which were combined to form Section 701.26 (previously Sections 701.26--Credit Union Service Center, 701.27-1--Purchase and Sale of Accounting Services, and 701.28--Joint Operations and Activities). Nor was such authority intended or discussed in the explanatory materials to the proposed and final versions of the current Section 701.26 (see 46 F.R. 57693, 11/25/81 and 47 F.R. 30460, 7/14/82).

You also inquire as to whether a credit union service organization (CUSO) can provide other credit unions with certain services and activities. The new Investments in and Loans to CUSO's regulation issued by the NCUA Board on March 18, 1986, (Section 701.27 of the NCUA Rules and Regulations, see 51 F.R. 10353, 3/26/86) provides an exclusive listing of permissible CUSO activities. Most of the services and activities you inquired about are listed as permissible in this regulation. Statement mailing and check encoding are not listed but would come within "accounting services" that is listed. "Securities brokerage services" is listed and includes discount brokerage services. A newsletter service is not listed in the CUSO regulation but arguably would come within management and personnel training and support which is listed. (See Section 701.27(d)(5) of new regulation.)

Although you only inquire about services that FCU's can offer to other credit unions under Sections 701.26 and 701.27 of the NCUA Regulations, certain services can be offered to other credit unions pursuant to various express powers in the FCU Act and the incidental powers clause (see Section 107(16) of the FCU Act, 12 U.S.C. §1757(16)). For example, it has been our position that FCU's can, at least on a short-term basis, rent out excess space in their buildings pursuant to their authority to purchase, hold, and dispose of property (see Section 107(4) of the FCU Act, 12 U.S.C. §1757(4)) and the incidental powers clause.

Jeffrey K. Hayes, Esq.

April 23, 1986  
Page Three

We hope that we have been of assistance. If further questions arise, please contact Hattie Ulan of this Office.

Sincerely,

SI

STEVEN R. BISKER  
Assistant General Counsel

HMU:cch