



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

December 15, 1986

Office of General Counsel

GC/HMU:sg
3600

Honorable Charles Wilson
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Wilson:

This is in response to your letter concerning Federal credit union (FCU) authorization to guarantee signatures for stock and bond transactions.

It is our opinion that FCU's may legally engage in the guarantee of stock transfer signatures for their members as a "goodwill service" not engaged in for a profit. Enclosed is a previous statement of our position on this issue.

Despite our position, FCU's have not been accepted in industry practice as signature guarantors. According to information we have received from Credit Union National Association (CUNA), a credit union trade association, stock transfer agents determine who is an acceptable guarantor. Except in special circumstances, the stock transfer agents have only accepted banks and brokerage houses as stock signature guarantors. Credit unions and savings and loan associations have not been accepted. The Securities and Exchange Commission (SEC) has taken the position that it does not have the authority to regulate who can guarantee signatures, but it can exert influence upon stock transfer agents as a group as to whom they choose to accept as guarantors. The SEC, the stock transfer agent association and various financial industry trade groups (including CUNA) have been meeting to discuss insurance coverage for stock transfer agents. Among the topics of the group's discussions is the acceptance of credit unions and savings and loan associations as stock signature guarantors by the stock transfer agent association. Although the effects of tax reform legislation have slowed down the workings of the group, CUNA is hopeful that an acceptable insurance product will be developed and the stock transfer agent association will accept credit unions as signature guarantors. You may wish to contact Kathleen Thompson, Esq. at CUNA (828-4500) for more information.

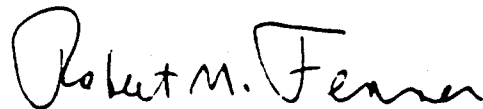
Honorable Charles Wilson

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In addition, FCU's may certify signatures for certain United States Treasury transactions. FCU's are granted the authority to perform services as the Secretary of the Treasury may require (See Section 121 of the FCU Act, 12 U.S.C. §1767). Treasury regulations state that credit unions can certify signatures for certain Treasury security transactions (see 31 C.F.R. Sections 357.3(d) and 357.31, 51 F.R. 18265, May 16, 1986).

I hope this has been helpful. If further questions arise, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Robert M. Fenner". The signature is written in dark ink and is positioned above the typed name.

ROBERT M. FENNER
General Counsel

HMU:sg

Enclosure



NATIONAL CREDIT UNION ADMINISTRATION

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WASHINGTON, D.C. 20456

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SSIC #3300
10/12/82

Gary P. Bosco, Esq.
Federal Administrative Counsel
Credit Union National Association, Inc.
1730 Rhode Island Ave., N.W.
Washington, D.C. 20036

Dear Mr. Bosco:

This is in response to your letter dated September 15, 1982, to Mr. Steven Bisker of this office concerning Federal credit union authority to guarantee stock transfer signatures. So that the record is clear as to our role and position with regard to this issue, I believe it would behoove me to briefly recap what has transpired up to this point.

By letter dated June 4, 1982, with enclosures, you first informed us of the desire of Federal credit unions to engage in the guarantee of stock transfer signatures of their members. In that letter you stated:

"It is our hope . . . that NCUA will have no problem formally authorizing credit unions to serve as signature guarantors on the theory that such activity constitutes an implied and incidental power authorized by the Federal Credit Union Act."

In support of this legal position you enclosed a copy of the Federal Home Loan Bank Board's opinion on the incidental powers issue. It was in response to your position that such activity was an incidental power that we noted, in our July 15, 1982, letter, that:

"We have carefully reviewed these documents and are not convinced that Federal credit unions can be said to have such powers. . . ."

We should note that the FHLBB letter does not convince us that the authority to guarantee signatures on stock transfers is 'incidental' to an 'express power'"

As you may recall, it was during your meeting with Mr. Bisker on August 13, 1982, that he suggested to you that one possible solution was to examine the issue not in terms of incidental powers but instead as a "good will service" not engaged in for profit, as discussed in Arnold Tours, Inc. v Camp, 472 F.2d 427 (1st Cir. 1972). Mr. Bisker supplied you with a copy of that case with the pertinent references highlighted. At that time you too indicated that you were reviewing the issue along the lines suggested.

We have studied your September 15, 1982, letter and generally concur with your analysis. However, a few points need to be stressed.



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First, in order to adhere to the implied guidelines of Arnold Tours, the credit union's goodwill service must not be operated for a profit. That is not to say that the FCU cannot receive a fee for such service to offset any costs associated with it.

Second, since by guaranteeing a member's signature on a stock transfer, an FCU is potentially exposed to monetary loss, FCU's engaging in such activity should have protection against such exposure. You noted that CUMIS plans to offer an endorsement to their surety bond, at no cost (no additional premiums), that will cover the exposure of an FCU's guarantee. This certainly would be a good way to protect FCU's engaging in such activity.

Lastly, as with all FCU services, the guarantees must only be performed for their members.

In conclusion, provided the above conditions are satisfied, we believe that FCU's may permissibly engage in such activity. I hope that we have been of assistance.

Sincerely,

JOHN L. OSTBY
General Counsel

by: TODD A. OKUN
Assistant General Counsel