



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

MAY 11 1987

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Office of General Counsel

Mr. George B. Kozol  
American General Life  
Insurance Company of New York  
300 South State St.  
Syracuse, NY 13201-1456

Dear Mr. Kozol:

This is in response to your letter dated December 12, 1986, to Hattie Ulan of this Office concerning life insurance policies sold to credit union members. Specifically, you ask whether individual life insurance policies offered to credit union members, the premiums for which are deducted directly from the members' share or share draft accounts, can qualify as an insurance sale directly related to the opening or maintenance of a share, share draft or share certificate account at the credit union. You cite Section 721.2(b)(1) of the NCUA Rules and Regulations (12 C.F.R. Part 721 enclosed).

It is our opinion that a life insurance policy, the premium payments for which are structured as above, would not qualify for treatment under Section 721.2(b)(1) unless the policy is directly related to an extension of credit by the FCU or is offered by the credit union as an incentive for individuals to open accounts.

Federal credit unions may make all types of insurance plans available to their members pursuant to Part 721 of the NCUA Regulations. Section 721.2 of the Regulations sets forth the limitations on compensation an FCU may receive from third party vendors of insurance. The NCUA does not limit the compensation an FCU may receive in connection with the sale of insurance directly related to an extension of credit or to the opening or maintenance of a share, share draft, or share certificate account. (See Section 721.2(b)(1).) Compensation for all other types of insurance is governed by Section 721.2(b)(2) of the Regulations. You should note that FCU's are subject to state laws applicable to the sale of insurance, including any limits the state may place on insurance commissions.

Federal credit unions may also make insurance available, as agents, not as underwriters, to their members through a credit union service organization (CUSO). (See Section 701.27 of NCUA's Regulations, 12 C.F.R. §701.27, enclosed.)

FOIA Vol. II Part D

INSURANCE premiums deducted  
from member accounts and  
§ 721 Compensation

Mr. George B. Kozol

Page Two

The NCUA does not limit insurance compensation to CUSO's. Again, CUSO's are subject to state laws affecting insurance sales.

The language you cite from the Federal Register of April 26, 1985, (50 Fed. Reg. 1663) refers to life savings insurance plans offered by FCU's to their members. Federal credit unions use life savings insurance plans as a means to attract and induce members to deposit their funds in the credit union. Under this type of plan, the FCU pays the premium for all members. Some FCU's offer their members the option to be covered by the group insurance with the member paying the premium. The member does not select the particular policy or the coverage. This is distinguished from the individual life insurance policies referred to in your letter.

I hope that we have been of assistance.

Sincerely,

STEVEN R. BISKER  
Assistant General Counsel

RD:sg

Enclosures

## § 701.24

### § 701.24 Refund of interest.

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of business on the last day of such dividend period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to classifications of loans established pursuant to 12 CFR 701.21-1(b).

(c) Based upon a determination that such loans have not made a significant contribution to the earnings that make the refund possible, the board of directors may exclude from an interest refund: (1) Any classification of loans determined in accordance with paragraph (b) of this section, and (2) all loans delinquent at least two months, or all loans delinquent for such greater period as is determined by the board.

(d) The board of directors minutes shall document the reasons for any decision to vary interest refund rates or exclude certain loans from a refund.

(e) The board of directors may authorize an interest refund for a dividend period only during such time as it may declare a dividend. However, if in a given calendar year a credit union has dividend periods more frequent than annual and an interest refund was not authorized for one or more dividend periods, the board, during the time permitted for the declaration of the current dividend, may authorize an interest refund for the current dividend period and for any one or more of the omitted dividend periods.

(f) The board of directors shall not authorize an interest refund for any dividend period unless dividends have been declared and paid on share accounts.

(g) An interest refund shall be recorded on the books of the credit union as a reduction of interest income.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757); sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and, sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

## 12 CFR Ch. VII (1-1-86 Edition)

[44 FR 5871, Jan. 30, 1979, as amended at 46 FR 55922, Nov. 13, 1981; 47 FR 1371, Jan. 13, 1982]

### § 701.25 [Reserved]

### § 701.26 Credit union service contracts.

(a) A Federal credit union may act as a 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 permitted by law.

(b) Where any agreement calls for, or requires, the payment in advance of the actual or estimated charges for more than 3 months such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1768), sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

[47 FR 30462, July 14, 1982]

### § 701.27 Credit union service organization.

(a) For purposes of this section, a "credit union service organization" is an entity defined in section 107(5)(D) or described in section 107(7)(I) of the Federal Credit Union Act.

(b) The purpose of a credit union service organization is to provide goods and services and perform functions that are associated with routine credit union operations. It may provide any or all of the following functions or services:

(1) Credit union operational functions including, but not limited to, credit union service centers, credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator

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209, 84 Stat.  
[47 FR 30463]

§§ 701.28—70

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National Credit Union Administration

services, research services, debt collec-  
tion services, credit analysis and loan  
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(2) Family financial services includ-  
ing, but not limited to, financial plan-  
ning and counseling, including retire-  
ment counseling, estate planning and  
income tax preparation, developing  
and administering IRA and Keogh  
plans and other personnel benefit  
plans, and provision of trust services  
including acting as trustee or in other  
similar fiduciary capacities;

(3) Acting as agent for the sale of li-  
ability, casualty, automobile, life,  
health, accident, title and other insur-  
ance;

(4) Personal property leasing and de-  
velopment of leasing plans; and

(5) Other services, as determined by  
the Board, that are associated with  
the routine operation of credit unions.

(c) A Federal credit union may,  
either by itself or by agreement with  
other entities, form or invest in a  
credit union service organization.

(d) A Federal credit union investing  
in or lending to a credit union service  
organization must submit all reports  
or any other information concerning a  
credit union service organization upon  
request by the NCUA Board. In addi-  
tion, a credit union service organiza-  
tion shall be subject to examination  
by the NCUA Board to the extent per-  
mitted by law.

(e) A Federal credit union may  
invest in and lend to a credit union  
service organization within the limits  
delineated in sections 107(7)(I) and  
107(5)(D) of the Federal Credit Union  
Act (12 U.S.C. 1757(7)(I) and  
1757(5)(D)).

(Sec. 107, 94 Stat. 132 (12 U.S.C. 1756), sec.  
120, 73 Stat. 635 (12 U.S.C. 1766) and sec.  
209, 84 Stat. 1104 (12 U.S.C. 1789))  
[47 FR 30463, July 14, 1982]

§§ 701.28—701.29 [Reserved]

§ 701.30 Safe deposit box service.

A Federal credit union may lease  
safe deposit boxes to its members.

(Sec. 107(15), 82 Stat. 284 (12 U.S.C.  
1757(15)); sec. 120(a), 92 Stat. 3681 (12  
U.S.C. 1766(a))  
[46 FR 7934, Jan. 26, 1981]

§ 701.31

§ 701.31 Nondiscrimination requirements.

(a) *Definitions.* As used in this part,  
the term:

(1) "Application" carries the mean-  
ing of that term as defined in 12 CFR  
202.2(f) (Regulation B), which is as  
follows: "An oral or written request  
for an extension of credit that is made  
in accordance with procedures estab-  
lished by a creditor for the type of  
credit requested";

(2) "Dwelling" carries the meaning  
of that term as defined in 42 U.S.C.  
3602(b) (Fair Housing Act), which is as  
follows: "Any building, structure, or  
portion thereof which is occupied as,  
or designed or intended for occupancy  
as, a residence by one or more fami-  
lies, and any vacant land which is of-  
fered for sale or lease for the construc-  
tion or location thereon of any build-  
ing, structure, or portion thereof"; and

(3) "Real estate related loan" means  
any loan for which application is made  
to finance or refinance the purchase,  
construction, improvement, repair, or  
maintenance of a dwelling.

(b) *Nondiscrimination in lending.*

(1) A Federal credit union may not  
deny a real estate related loan, nor  
may it discriminate in setting, or exer-  
cising its rights pursuant to, the terms  
or conditions of such a loan, nor may  
it discourage an application for such a  
loan, on the basis of the race, color, re-  
ligion, sex, or national origin of:

(i) Any applicant or joint applicant;

(ii) Any person associated, in connec-  
tion with a real estate related loan ap-  
plication, with an applicant or joint  
applicant;

(iii) The present or prospective  
owners, lessees, tenants, or occupants  
of the dwelling for which a real estate  
related loan is requested;

(iv) The present or prospective  
owners, lessees, tenants, or occupants  
of other dwellings in the vicinity of  
the dwelling for which a real estate re-  
lated loan is requested.

(2) With regard to a real estate relat-  
ed loan, a Federal credit union may  
not consider a lending criterion or ex-  
ercise a lending policy which has the  
effect of discriminating on the basis of  
race, color, religion, sex, or national  
origin. Guidelines concerning possible

going may be imposed appropriate Federal supervisory specific case.

tion sponsored by any organization. A manual of a federally insured that is sponsored by any organization primarily employees or the employees or the employees may serve at as a management official sponsoring depository or

management officials due circumstances. If a deinstitution is likely to lose more of its directors or management officials due circumstances described this part, the affected officials may continue to ss of the time periods 711.6, provided that: (i) y organization's prospective management officials or di- e disruptive to the interest of the depository or- ) the depository organization states that, absent a in accordance with this 0 percent or more of ctors or management of- e) sever their inter- onship with the depository; (iii) if the prospective management officials re- ore than one change in such changes in cir- ust have occurred within eriod; and (iv) the depository develops a plan for ermination of service by anagement official over a onger than 30 months nange in circumstances l the person's service to ibited (but if the loss of officials is the result of one change in circum- 30-month period is meas- e first change in circum- er conditions in addition of the foregoing may be the Federal supervisory auating the request sub- ant to this paragraph, the rvisory agency will pre- director who also is a e employee of the deposi-

tory organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 711.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

[45 FR 24399, Apr. 9, 1980, as amended at 48 FR 50307, Nov. 1, 1983]

§ 711.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 711.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

(Sec. 209, Pub. L. 95-630, 92 Stat. 3872 (12 U.S.C. 3207))

[48 FR 5535, Feb. 7, 1983]

§ 711.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under

§ 711.5 of this part, this person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in relevant metropolitan statistical area or community boundaries or the designation of a new relevant metropolitan statistical area, an acquisition, merger, or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

[48 FR 50306, Nov. 1, 1983, as amended at 49 FR 28044, July 10, 1984]

§ 711.7 Enforcement.

The National Credit Union Administration Board administers and enforces the Interlocks Act with respect to federally insured credit unions, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part.

[45 FR 24399, Apr. 9, 1980]

PART 721—FEDERAL CREDIT UNION INSURANCE AND GROUP PURCHASING ACTIVITIES

Sec.

721.1 Authority.

721.2 Reimbursement.

AUTHORITY: Sec. 107(15), 94 Stat. 132 (12 U.S.C. 1757(15)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766), and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

§ 721.1

§ 721.1 Authority.

A Federal credit union may make insurance and group purchasing plans involving outside vendors available to the membership (including endorsement), and may perform administrative functions on behalf of the vendors.

[47 FR 44243, Oct. 7, 1982]

§ 721.2 Reimbursement.

(a) For purposes of paragraph (b) of this section, the following definitions shall apply:

(1) "Dollar amount" shall mean \$4 per single payment policy, \$6 per combination policy, or \$4 per annum for any other type of policy; and

(2) "Cost amount" shall mean the total of the direct and indirect costs to the Federal credit union of any administrative functions performed on behalf of the vendor. The Federal credit union must be able to justify this amount using standard accounting procedures.

(b) A Federal credit union may be reimbursed or compensated by a vendor for activities performed under § 721.1 as follows:

(1) Except as otherwise provided by applicable state insurance law, reimbursement or compensation is not limited with respect to insurance sales by the credit union or its employees which are directly related to an extension of credit by the credit union or directly related to the opening or maintenance of a share, share draft or share certificate account at the credit union;

(2) For insurance sales other than those described in paragraph (b)(1), a Federal credit union may receive an amount not exceeding the greater of the dollar amount or the cost amount;

(3) For group purchasing plans other than insurance, a Federal credit union may receive an amount not exceeding the cost amount.

(c) No official or employee of a Federal credit union or any immediate family member of an official or employee may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this regulation. For purposes of this section, "immediate family member"

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means a spouse, or a child, parent, grandchild, grandparent, brother or sister, or spouse of any such individual.

[50 FR 16464, Apr. 26, 1985]

PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS

Sec.

724.1 Federal credit unions acting as trustees and custodians of pension plans.

724.2 Appointment of successor trustee or custodian.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766).

§ 724.1 Federal credit unions acting as trustees and custodians of pension plans.

A Federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan which qualifies or qualified for specific tax treatment under section 401(d) or 408 of the Internal Revenue Code, for its members or groups or organizations of its members, provided the funds of such plans are invested in share accounts or share certificate accounts of the Federal credit union. All funds held in a trustee or custodial capacity must be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The Federal credit union shall maintain individual records for each participant which shows in detail all transactions relating to the funds of each participant or beneficiary.

[40 FR 25582, June 17, 1975, as amended at 43 FR 29271, July 7, 1978. Redesignated at 46 FR 47437, Sept. 28, 1981]

§ 724.2 Appointment of successor trustee or custodian.

The plan shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation or organization other than

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[40 FR 25582, 43 FR 29271, 46 FR 47437,

PART 7 UNION TRAIL LIC

Sec.

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- 725.17 App
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