



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

June 21, 1988

GC/JT:sg
3600

Office of General Counsel

Gary Greenwald, Esq.
Reichelt, Nussbaum, Brown, Dukes & LaPlaca
P.O. Box 627
Greenbelt, Maryland 20770

Re: Certification of Share Accounts/ Your File No. 88-121
(Your May 12, 1988 Letter)

Dear Mr. Greenwald:

You have asked whether a Federal credit union has the authority to certify share drafts. In a recent opinion, we stated our view that a Federal credit union may, as an incidental power to its ability to offer share draft accounts, certify share drafts. A copy is enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy P. McCollum'.

TIMOTHY P. MCCOLLUM
Assistant General Counsel

JT:sg

Enclosure

FOIA Vol. II E2 Shares Drafts



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

June 9, 1988

Office of General Counsel

Kathleen O. Thompson, Esq.
Washington Counsel
Credit Union National Association, Inc.
805 15th Street, N.W.
Suite 300
Washington, D.C. 20005

Re: Federal Credit Union Certification of Share Drafts
(Your April 29, 1988 Letter)

Dear Ms. Thompson:

You have asked our opinion on the power of a Federal credit union ("FCU") to certify share drafts. An FCU may, as an incidental power to its ability to offer share draft accounts, certify share drafts.

BACKGROUND

For purposes of your question, you have adopted the definition of "certified check" contained in the Federal Reserve's Regulation CC on checkholds (see 52 Fed. Reg. 19372, May 27, 1988). Our response is also based on this definition.

Section 229.2 of the regulation defines "certified check" to mean:

[A] check with respect to which the drawee bank certifies by signature on the check of an officer or other authorized employee of the bank that - (1)(i) The signature of the drawer on the check is genuine; and (ii) The bank has set aside funds that -- (A) Are equal to the amount of the check; and (B) Will be used to pay the check; or (2) The bank will pay the check upon presentment.

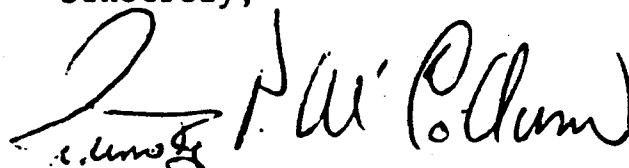
"Check" and "bank" are defined in Regulation CC to include "share draft" and "credit union" (see Section 229.2).

Kathleen O. Thompson, Esq.
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ANALYSIS

Though an FCU does not have the express power to certify share drafts [See 12 U.S.C. §1757(1)-(15)] it may "exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated." [12 U.S.C. §1757(16)]. This clause empowers an FCU to take such additional action as "is convenient and useful in connection with the performance of one of the [FCU's] established activities pursuant to its express powers under" the FCU Act. Arnold Tours v. Camp, 472 F. 2d 427 (1st Cir. 1972) (interpreting bank's incidental powers). The certification of share drafts is "convenient and useful" to an FCU in carrying out its express authority under Section 107(6) of the FCU Act [12 U.S.C. 1757(6)] to offer share draft accounts, and is therefore a permissible activity for an FCU.

Sincerely,



TIMOTHY P. MCCOLLUM
Assistant General Counsel

JT:sg