



GC/HMU:bhs
8300

NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

January 24, 1989

Office of General Counsel

Tom Haider, Esq.
Staff Attorney
Minnesota League of Credit Unions
2788 East 82nd Street
Bloomington, MN 55425

Re: Noninsured Share
(Your November 22, 1988 Letter)

Dear Mr. Haider:

The Minnesota State Credit Union Act provides that all Minnesota-chartered credit unions maintain share insurance with the National Credit Union Share Insurance Fund ("NCUSIF"). It provides further that one member share may be excluded from such insurance. The NCUSIF system is not currently structured to deal with such uninsured shares. We noted our concerns in this area in a letter concerning uninsured shares in Oregon-chartered credit unions. Most of the same concerns are applicable to uninsured shares in Minnesota-chartered credit unions.

BACKGROUND

Section 52.24 of the Minnesota Statutes provides for mandatory NCUSIF coverage of member share and deposit accounts for all Minnesota-chartered credit unions. Subdivision three of Section 52.24 provides one exclusion to such coverage:

Subd. 3. Exclusion. Notwithstanding the provisions of 1 and 2, any one share of a member, as designated in the bylaws of the credit union, may be excluded from the requirement for insurance. At the time a share so designated as an uninsured, non-withdrawable membership share is subscribed to, the person subscribing will be provided the following separate notification printed in not less than the equivalent of

FOIA - Vol. III, Part C

8-point type, 0.075 inch computer type, or elite-sized typewriter numerals, or shall be legibly handwritten:

"Membership shares are not insured by any state or federal agency and may be used to pay the expenses and losses of the credit union in the event all other available reserves have been depleted."

Section 201 (a) of the FCU Act (12 U.S.C. §1781(a)) states:

The Board, as hereinafter provided ... may insure the member accounts of (1) credit unions organized and operated according to the laws of any State....

Section 101(5) of the FCU Act (12 U.S.C. §1752(5)) defines a "member account" and "account" as:

a share, share certificate, or share draft account of a member of a credit union ... [including] as determined by the [National Credit Union Administration] Board, the equivalent of such accounts under State Law.

Section 202(c) of the FCU Act (12 U.S.C. §1782(c)) provides:

(1)(A)(i) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union's insured shares.

* * *

(iii) The amount of each insured credit union's deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares.

* * *

(2) Each insured credit union, at such time as the Board prescribes, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per

centum of the total amount of the insured shares in such credit union at the close of the preceding insurance year.

Section 207 of the FCU Act (12 U.S.C. §1787), the only section of the FCU Act that mentions the limits on account insurance coverage, states:

(c)(1) Whenever an insured credit union shall have been closed for liquidation on account of bankruptcy or insolvency, payment of the insured accounts in such credit union shall be made by the Board as soon as possible [F]or the purposes of this subsection, the term "insured account" means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of \$100,000.

The call report form on which total insured shares are entered and NCUSIF premium payment is calculated for federally-insured state-chartered credit unions (Form 5300s) does not provide an entry for noninsured member shares.

PROBLEM AREAS

In our view, Minnesota credit unions taking in uninsured member shares poses two of the three major problems that we noted in our Oregon letter: (1) assuring that the uninsured shares are not part of a "member account" for insurance purposes under Section 207 of the FCU Act; and (2) assuring that the uninsured shares are properly excluded from the deposit and premium calculations under Section 202 of the FCU Act. You note in your letter that Minnesota law is distinguishable from Oregon law, and therefore the concerns we raised in our Oregon letter are not applicable to Minnesota credit unions. You fail to state how the two credit union laws differ. The only difference we are aware of is the disclosure requirement of Section 52.24 of the Minnesota Statutes. This takes care of the problem noted in the Oregon letter of assuring that credit union members are aware of the uninsured share. Our two other concerns, as noted above, remain.

As noted in our Oregon letter, concerning Oregon credit unions, we suggest that you develop a plan consistent with the FCU and Minnesota Credit Union Acts, that will allow for

Tom Haider, Esq.
Page 4

the noninsured share. The NCUA will work with you in making any necessary changes to Form 5300s. The Region V Regional Office will serve as your initial contact.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Acting Assistant General Counsel

HMU:bhs

cc: RD, Region V
Director, E&I