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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

May 16, 1989

Office of General Counsel

Kathleen O. Thompson, Esq.
Deputy Director of Governmental Affairs and Washington Counsel
Credit Union National Association, Inc.
805 15th Street NW
Suite 300
Washington, DC 20005-2207

Re: FCU Authority to Provide Services to Nonmembers
(Your March 1, 1989, Letter)

Dear Ms. Thompson:

You have asked that we provide clarification on NCUA's position regarding the authority of Federal credit unions ("FCU's") to provide services to nonmembers. Some confusion may have been generated on this issue as a result of a press report interpreting a previous opinion of this Office. The press report may have created the impression that an FCU has the general power to provide services to nonmembers. This is incorrect.

ANALYSIS

An FCU can only engage in activities that are either expressly authorized by the FCU Act or are incidental to one of the express powers pursuant to the incidental powers clause (Section 107(16) of the FCU Act (12 U.S.C. 1757(16))).

Section 107(16) of the FCU Act allows an FCU:

to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

This "incidental powers" authority includes the power to do what "is convenient or useful in connection with the performance of one of the . . . established activities pursuant to its express powers. . . . " Arnold Tours v. Camp, 472 F.2d 427

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(1st Cir. 1972). It does not provide FCU's with the general authority to provide services to nonmembers.

NCUA has authorized FCU's to provide services to nonmembers only where the service being provided is a necessary prerequisite to the FCU's ability to provide a service to a member pursuant to an express FCU power. In this limited circumstance, the nonmember service is authorized pursuant to the incidental powers clause of the FCU Act. For example, NCUA has determined that an FCU may cash VISA travelers checks for nonmembers where the VISA travelers check agreement requires all financial institutions offering lines of credit through VISA cards to cash VISA travelers checks. This activity is permitted under the incidental powers clause on the basis that: (1) it is a necessary prerequisite for providing expressly-authorized services to a member -- check cashing for members pursuant to Section 107(12) of the FCU Act (12 U.S.C. 1757(12)) and the authority to extend lines of credit to members pursuant to Section 107(5) of the FCU Act (12 U.S.C. 1757(5)); and (2) it is "convenient or useful" to an FCU's express power. There is no general authority to cash checks for nonmembers.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel

JT:sg