



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

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SSIC 3800
89-0605

Office of General Counsel

July 12, 1989

Vasilica Dobrescu
ACTWU Employees Federal Credit Union
15 Union Square
New York, N.Y. 10003

Re: ACTWU Employees Federal Credit Union's Canadian
Bank Account (Your May 23, 1989, Letter)

Dear Ms. Dobrescu:

You have asked whether it is permissible for the ACTWU Employees Federal Credit Union (FCU) to maintain a noninterest-bearing checking account in a Canadian bank. The answer is no.

BACKGROUND

Your FCU has established a noninterest-bearing checking account in a Canadian bank to conduct business for five members who live in Canada and are paid in Canadian dollars but work for a U.S. corporation. This bank account is maintained because it is easier to keep these funds in Canadian dollars, which are issued on a monthly basis, than to establish a converted amount every time there is a transaction.

ANALYSIS

The FCU Act delineates the express powers of FCU's. Section 107(6) (12 U.S.C. 1757(6)) expressly authorizes an FCU to accept shares. Section 107(4) (12 U.S.C. 1757(4)) empowers an FCU "to purchase, hold, and dispose of property necessary or incidental to its operations." Section 107(8) of the FCU Act (12 U.S.C. 1757(8)) provides, in part, that the FCU's have the power:

(8) to make deposits in national banks and in State banks, trust companies, and mutual savings banks operating in accordance with the laws of the State in which the Federal credit union does business, or in banks or

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institutions the accounts of which are insured by the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation, and for Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories, subject to such regulations as may be issued by the Board and provided such banks are correspondents of banks described in this paragraph. . . .

An FCU is not authorized to deposit money in a Canadian bank unless the bank meets the requirements of Section 107(8) of the FCU Act.

FCU's 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. The incidental powers clause (Section 107(16), 12 U.S.C. 1757(16)) of the FCU Act authorizes 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.

The incidental powers clause only authorizes activities that are a necessary prerequisite to an FCU's ability to provide services to members pursuant to an express FCU power. In this instance, the FCU Act in Section 107(8), expressly authorizes what type of deposits an FCU may establish, making consideration of the incidental powers clause unnecessary. Therefore, the FCU does not have the authority to deposit funds in a Canadian bank because it does not have the express authority to make deposits in foreign institutions under the requirements of Section 107(8) of the FCU Act.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel