



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

Office of General Counsel

GC/JT:sg
SSIC 3501
89-0105

October 13, 1989

Ms. Sharon Tecklenburg
Secretary
Ledex Employes Federal Credit Union
801 Scholz Drive
Vandalia, Ohio 45377

Re: Permissibility of a Federal Credit Union
Accepting 401k Shares (Your September 29,
1989 Letter)

Dear Ms. Tecklenburg:

You have asked whether it is permissible for a Federal credit union ("FCU") to be a depository for its sponsoring company's Internal Revenue Code Section 401k ("401k") deferred compensation plan. This is a permissible activity for an FCU. The advisability of an FCU serving in this capacity is a decision to be made by the FCU's board of directors.

ANALYSIS

An FCU may receive 401k funds into a share or share certificate account. (See Section 745.9-3 of NCUA's Rules and Regulations (12 C.F.R. 745.9-3).) However, an FCU does not have the authority to serve as the trustee for such plans. Section 745.9-3 of NCUA's Regulations sets forth the insurance coverage for deferred compensation accounts, providing:

Funds deposited by an employer pursuant to a deferred compensation plan (including 401(k) of the Internal Revenue Code) shall be insured up to \$100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer.

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The IRS has regulations concerning 401k plans. We make no determination on compliance with IRS requirements. Whether it is advisable for your FCU to continue to serve as a depository for your sponsoring company's 401k funds is a decision to be made by your board of directors.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel