



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

June 5, 1990

Mr. Robert Thompson
Executive Vice President
Tropical Telco Federal Credit Union
P.O. Box 525400
Miami, FL 33152

Re: ATM Services (Your March 8, 1990, Letter)

Dear Mr. Thompson:

You asked if your federal credit union (FCU) or credit union service organization (CUSO) can provide ATM deposit services to other credit unions participating in a shared ATM network. An FCU has a limited authority to provide such services to other credit unions. A CUSO can also provide the services pursuant to the CUSO regulation.

BACKGROUND

Your FCU and other credit unions are currently users of a shared ATM network. Part of the ATM service involves opening envelopes deposited through the ATM, and sorting, balancing and crediting the various participating credit union accounts. A fee will be paid to the provider of this service.

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(17) of the FCU Act, 12 U.S.C. 1757(17)).

An FCU is not expressly authorized to provide ATM services to other credit unions. In Arnold Tours, Inc. v. Camp, 472 F.2d 427 (1st Cir. 1972), a court defined incidental powers for national banks as:

[an activity] that is convenient or useful in connection with the

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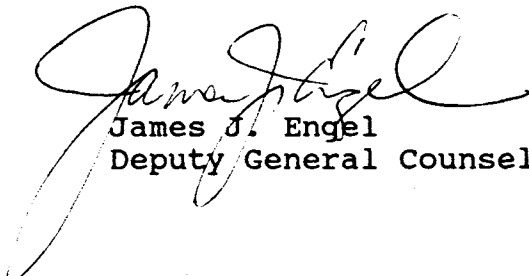
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performance of one of the bank's established activities pursuant to its express powers under the National Bank Act. If this connection between an incidental activity and an express power does not exist, the activity is not authorized as an incidental power.

In American Bankers Association v. Connell, 447 F. Supp. 296 (D.D.C. 1978), the court applied the "convenient or useful" test of incidental powers to FCUs. We believe that under this particular fact scenario, the "convenient or useful" test is met which would allow an FCU to provide this service to other credit unions. However, this authority is limited to providing ATM services to other credit unions, and does not authorize an FCU to be in the general business of providing ATM services.

Section 701.27 of the NCUA Rules and Regulations (12 C.F.R. 701.27) governs FCU investments in and loans to CUSOs. A CUSO may perform ATM services pursuant to Section 701.27(d)(5)(i) of the regulation. The services you describe fit squarely within ATM services. All other provisions of the CUSO regulation must be complied with by FCUs investing in or loaning to the CUSO.

Sincerely,



James J. Engel
Deputy General Counsel

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