



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

September 4, 1990

Mr. John F. Taggart
SMW Local Union #19 Federal Credit Union
1301 S. Delaware Avenue
Philadelphia, PA 19147

Re: Insurance Coverage (Your May 16, 1990, Letter)

Dear Mr. Taggart:

You have asked us several questions concerning possible insurance coverage of money deposited into the SMW Local Union #19 Federal Credit Union ("FCU") by the Sheet Metal Workers' International Association Local #19's Health and Welfare Trust Fund ("Fund").

BACKGROUND

Local Union #19 has established the Fund to provide health and welfare benefits to its members. The Fund has its own tax identification number and is used exclusively for health and welfare benefits of Local #19's sheet metal workers. Not all of the members of the Fund are members of the FCU. Each union member contributes a portion of his wages to the Fund. These funds are comingled and not assigned to individual members. If a union member becomes sick or is hospitalized, payment from the Fund is made for the member's medical services in accordance with procedures reviewed by appropriate officials within the Fund. Payments are made without regard to the amount contributed by the union member and can exceed the amount contributed by the member. A union member may contribute to the Fund and never receive any benefits. The Fund has displayed an interest in making deposits in the FCU.

Local Union #19 also owns an independent corporation that rents out its meeting facilities to the general public. The corporation's board of directors is appointed by the general membership

10/11
Vol. 10 Part C Insurance Coverage

Mr. John F. Taggart
September 4, 1990
Page 2

of Local Union #19. The corporation desires to become a member of the credit union.

ANALYSIS

What is the insurance coverage of any money deposited by the Fund into the credit union?

Except in situations not applicable here, only FCU members can establish insurable accounts in federal credit unions. Generally, where there are multiple owners of a single account, only that part which belongs to a member is insured. (See Section 745.0 of the NCUA Regulations, 12 C.F.R. §745.0.) Appendix G of Section 745 of NCUA's Rules and Regulations addresses trust accounts and states in part that:

A trust estate is the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, that is valid under state law. . . . In order for insurance coverage of trust accounts to be effective in accordance with the foregoing rules, certain recordkeeping requirements must be met. In connection with each trust account, the credit union's records must indicate the name of both the settlor and the trustee of the trust and must contain an account signature card executed by the trustee indicating the fiduciary capacity of the trustee. In addition, the interests of the beneficiaries under the trust must be ascertainable from the records of the credit union or the trustee, and the settlor or beneficiary must be a member of the credit union. If there are two or more settlors or beneficiaries, then either all the settlors or all the beneficiaries must be members of the credit union.

We view the Fund as an unincorporated association rather than a trust account. There is no irrevocable trust. The members are not the "owners" of any portion of the Fund. The members have no ascertainable interest in the Fund and therefore have no insurable interest. The only method for the Fund to receive insurance coverage on its deposits at the credit union is for the Fund to

Mr. John F. Taggart
September 4, 1990
Page 3

become a member of the FCU. If the Fund is added to the field of membership of the FCU, and becomes a member, then any deposits up to \$100,000 would be insured pursuant to Section 745.6 of the NCUA regulations -- Accounts Held by a Corporation, Partnership, or Unincorporated Association (12 C.F.R. §745.6). You state in your letter that certain FDIC institutions insure Fund monies up to \$100,000 per participant. We would be receptive to reviewing any basis for such additional insurance.

Can the corporation owned by Local Union # 19 become a member of the FCU?

A corporation can become a member of an FCU in one of three ways. First -- and this occurs in some community-based FCU charters -- the "field of membership" section (Section V) of the charter may include "all businesses, partnerships and corporations" within the defined geographic boundaries. Second -- and this is often true of occupational FCU charters -- a particular corporation, e.g., the sponsoring organization, may be specifically listed in the field of membership in the charter. If membership eligibility of a corporation is obtained in one of these two ways, membership eligibility of the shareholders, directors or officers of the corporation is irrelevant.

The third way for a corporation to qualify for membership in an FCU is based upon the membership eligibility of the shareholders. For this to be possible, the FCU must have in Section V of its charter the phrase "organizations of such persons" which is defined in Article XVIII, Section 2(b) of the Standard FCU Bylaws, as "an organization or organizations composed exclusively of persons who are within the field of membership of this credit union." If all corporate shareholders are members or are within the FCU's field of membership, then the corporation would qualify as a member. With respect to wholly-owned subsidiaries, we would look to the membership eligibility of the parent or, if the parent is itself an "organization of such persons," of the parent's shareholders.

The alternative best suited for your situation would be the second option -- to add the corporation to the FCU's field of membership. It also appears that the corporation may qualify for

Mr. John F. Taggart
September 4, 1990
Page 4

membership under the third option since all members of Local Union #19 are in the FCU's field of membership and "organizations of such persons" is included in Section 5 of the FCU's charter.

Sincerely,

Hattie M. Ulan
HATTIE M. ULAN
Associate General Counsel

GC/MM:sg
SSIC 3501
90-05225