



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON DC 20456

September 21, 1990

Leon G. Swenson
Legal Consultant
South Dakota Credit Union League
Post Office Box 0
500 Western Avenue North
Sioux Falls, SD 57101

Re: Social Security Beneficiaries (Your July 26,
1990, Letter)

Dear Mr. Swenson:

You have asked for information on what type of an account a member may establish at a federal credit union ("FCU") to comply with Social Security Administration representative payee requirements.

BACKGROUND

In cases where an individual receiving Social Security benefits is not able or competent to handle his/her own financial affairs, a relative, for example, could apply to the Social Security Administration to be a representative payee. As such, the representative payee would receive the Social Security funds and use the funds for the benefit of the Social Security beneficiary. If a representative payee has direct deposit, the account title must show that the payee has only a fiduciary interest in the funds. The Social Security Administration also has requirements on the titling of the accounts. The question has arisen concerning what type of account a member Social Security beneficiary who needs the assistance of a representative payee, may establish at an FCU.

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ANALYSIS

A representative payee account can most likely be established under two sections of NCUA Regulations: Section 745.3 (Single Ownership Accounts) (12 C.F.R. §745.3) or Section 745.9-1 (Trust Accounts) (12 C.F.R. §745.9-1).

Section 745.3 (Single Ownership Accounts)

Section 745.3 states, in pertinent part:

(a) Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to \$100,000 in the aggregate

* * *

(2) Accounts held by agents or nominees. Funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to \$100,000 in the aggregate.

* * *

(b) Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator are insured up to \$100,000 in the aggregate, separately from any other accounts of the guardian, custodian, conservator, ward, or minor.

An account may be established under Section 745.3(a) or (b) that will probably satisfy Social Security requirements. In the case of an account established pursuant to Section 745.3(a)(2), it may be properly established only if the principal (in this case the Social Security beneficiary) is eligible for membership in the credit union. Any agent or nominee need not be a member of the credit union. In the case of an account established pursuant to Section 745.3(b), either the legal guardian or the ward (in this case the So-

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cial Security beneficiary) may be a member of the credit union.

Section 745.9-1 (Trust Accounts)

Section 745.9-1 states:

- (a) For purposes of this section "trust" refers to an irrevocable trust.
- (b) All trust interests (as defined in subsection 745.2(d)(4)), for the same beneficiary, deposited in an account and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$100,000 in the aggregate, separately from other accounts of the trustee of such funds or the settlor or beneficiary of such trust arrangements.

Either the settlor or the beneficiary must be a member of the credit union before an irrevocable trust account can be created. Membership of the trustee is irrelevant. There is language in the Social Security Administration operating policy that may restrict the use of this type of account for representative payee purposes.

In any case, we recommend that you consult with the Social Security Administration to ensure that the accounts discussed above meet the requirements for the establishment of a representative payee account.

Sincerely.

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

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