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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

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SSIC8200
89-0602

Office of General Counsel

June 29, 1989

Ms. Casandra Dietz
Monroe Community Federal Credit Union
390 North Courtland Street
East Stroudsburg, PA 18301

Re: Monroe Community Federal Credit Union Charter
#13628 (Your May, 1989 Letter)

Dear Ms. Dietz:

You have asked the following questions: (1) Are the men working out of the Railway Express trucking firm, who are not employees of the trucking firm, eligible to join your credit union? and (2) Can an escrow account for insurance premiums be established for the men working out of the trucking firm? The men are within the field of membership of the credit union and an escrow account may be established with the Monroe Community Federal Credit Union ("FCU") as long as the owners of the funds are FCU members.

BACKGROUND

Railway Express is a member of the Monroe Community Federal Credit Union. The owner of this company has men working exclusively out of his place of business, although the men own their trucks and are not "employees" of the trucking firm. The company pays the insurance for these men and the men or the company would like to set up an escrow account at the FCU for the insurance premiums.

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ANALYSIS

Membership

Pursuant to Section 109 of the FCU Act (12 U.S.C. §1759), individuals and organizations may qualify for membership in a particular FCU if they work for or belong to one or more occupational or associational groups or if they live, work, or are located in a defined community. The field of membership for each FCU is set forth in its charter. Section 5 of the Monroe Community Federal Credit Union includes the following in the field of membership:

1. Residents and persons who are regularly employed within a three-mile radius of the Interborough Bridge spanning the Broadhead Creek between East Stroudsburg and Stroudsburg, Pennsylvania, who are not eligible for membership in another credit union. . . .

You have informed us that the Railway Express firm is within this three mile radius. Therefore, as long as the men working out of the firm are regularly self-employed and are not eligible for membership in another credit union, they are within the FCU's field of membership and may become members of the FCU.

Escrow Accounts

Except with regard to low-income designated credit unions, whether an escrow account can be a legally-established and insured "member account" will depend on the membership eligibility of the owner of the funds. (See Section 745.0 of the NCUA Regulations, 12 C.F.R. §745.0.) Insurance of an escrow account will depend on the kind of account established. Generally, it is our understanding that escrow accounts are established as agent or revocable trust accounts. Section 745.3(a)(2) of the NCUA Rules and Regulations (12 C.F.R. 745.3(a)(2)), which governs such nontestamentary accounts, provides:

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 accounts of the principal and insured up to \$100,000 in the aggregate.

In determining the insurance of an escrow account which is set up as a type of agent account, the membership of the principal/owner

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of the funds is the critical factor. (See 12 C.F.R. 745.0.) The owner of the funds is required to be a member of the FCU. As long as both the trucking company and the self-employed individuals are members of the credit union, the escrow account will be an insured member account.

One cautionary-note -- FCU's have not been granted general trust authority and should not be performing trust functions in regard to any escrow accounts.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel