



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

December 3, 1991

Lawrence C. Williams
Administrator
Alabama Credit Union Administration
State of Alabama
771 So. Lawrence St.
Suite 103
Montgomery, AL 36130-0901

Re: Check Clearing Services for Sponsor
(Your Letter of October 22, 1991)

Dear Mr. Williams:

You requested the NCUA position regarding a Federal credit union ("FCU") providing a check clearing service for its sponsor. Such a service would be permissible if the sponsor is an FCU member with a share account.

BACKGROUND

The Delchamps Credit Union ("Delchamps CU"), an Alabama state-chartered credit union, has requested permission of the Administrator of the Alabama Credit Union Administration to engage in a check processing service for its sponsor, Delchamps, Inc., a grocery store chain. Delchamps CU has requested that Delchamps, Inc. be permitted to open an account for check clearing purposes only at Delchamps CU. Apparently this amounts to almost one million checks cleared each month. Furthermore, Delchamps, Inc. will be able to clear its disbursement checks through the same account, which will equal approximately 46,000 checks cleared each month. Delchamps, Inc. has agreed to pay all of the cost of processing their checks through Delchamps CU.

ANALYSIS

Alabama law permits state-chartered credit unions to "engage in any activity in which such credit union could engage were such credit union operating as a federally chartered credit

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union...." Ala. Code §5-17-4 (Michie Co. 1990 Supp.). Therefore, if the NCUA would permit a FCU to engage in the proposed activity discussed in the Background section of this letter, Alabama could also permit an Alabama state-chartered credit union to engage in such activity.

FCUs can only engage in activities that are either expressly authorized by the FCU Act or are incidental to an express power. 12 U.S.C. §1757(17). We have stated that incidental to its authority to receive shares from a member (12 U.S.C. §1757(6)), an FCU may make disbursements on behalf of that member to third parties. Assuming that Delchamps, Inc. was a member of an FCU, the FCU could clear checks for Delchamps, Inc. In addition, the FCU could be compensated by Delchamps, Inc. for the administrative costs of the account.

In order for Delchamps to be a member of an FCU, however, it would need to maintain "at least one share of [FCU] stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors...." 12 U.S.C. §1759. Delchamps, Inc. proposes to only maintain a clearing account and no share account. This would not be permitted under federal law. Finally, we note the enclosed letter describing how a similar check clearing service could be offered through a credit union service organization ("CUSO"). See Letter to David B. Beckhorn, Chief Operating Officer, Wegmans FCU, from me, Re: CUSOs, dated February 26, 1991.

Sincerely,



Hattie M. Ulan
Associate General Counsel

Enclosure

GC/MEC:sg
SSIC 4630
91-1105