



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

March 14, 1992

James C. Blaine
President, State Employees' Credit Union
P.O. Box 27665
Raleigh, N.C. 27611-7665

Re: ~~Guaranteed Student Loan Program~~ (Your April 18, 1991, and July 30, 1991, Letters to NCUA's Region III Office)

Dear Mr. Blaine:

You have asked whether federal credit unions (FCUs) may participate in a program of the College Foundation, Inc. (CFI), a North Carolina nonprofit corporation which administers the federal Guaranteed Student Loan (GSL) program in North Carolina. Although State Employees' Credit Union (SECU) is a state-chartered, federally insured credit union, you have asked about FCU participation in the program because SECU is considering converting to a federal charter. You have also asked whether the National Credit Union Administration (NCUA) anticipates any changes to FCU authority to invest/lend through the GSL program.

Background

According to your letters, CFI was created specifically to handle the approval, administration, collection, and compliance functions of the federal GSL program in North Carolina. You state that SECU has \$7.5 million in outstanding loans to members administered by CFI. You imply that SECU has also purchased the notes of members and low income individuals as an investment. You state that returns on GSL investments are at variable rates tied to a 91-day T-bill rate index. SECU is reportedly planning "to expand [its] participation in guaranteed student loans to help

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assure that lack of funding is not a cause for a capable student to miss the opportunity for a higher education."

Analysis

The exact nature of SECU's current and proposed expanded participation in CFI is not clear from your letters. For instance, we were unable to determine whether it is SECU or CFI that evaluates loan applications, makes credit evaluations, and disburses funds. In addition, when you speak of "investing" in CFI, we are unsure what you mean by the term. As you are no doubt aware, FCUs may make student loans to members pursuant to the general lending authority set forth in Section 107(5) of the FCU Act, 12 U.S.C. §1757(5), and Section 701.21 of the National Credit Union Administration (NCUA) Rules and Regulations, 12 C.F.R. §701.21. Further, FCUs may purchase eligible obligations of their members, including student loans, pursuant to Section 107(13) of the FCU Act, 12 U.S.C. §1757(13), and Section 701.23 of the Rules and Regulations, 12 C.F.R. §701.23. In addition, Section 701.23(b)(1)(iii) of the Rules and Regulations, 12 C.F.R. §701.23(b)(1)(iii), provides that FCUs may purchase student loans from any source, if they are granting student loans on an ongoing basis and if the purchase will facilitate the packaging of a pool of such loans to be sold or pledged on the secondary market. Section 107(7)(E), 12 U.S.C. §1757(7)(E), authorizes FCUs to invest in obligations or other instruments or securities of the Student Loan Marketing Association. Section 107(7)(K) of the FCU Act, 12 U.S.C. §1757(7)(K), permits FCU investments in obligations or issuances of a state or political subdivision or a corporation thereof. Neither the FCU Act nor the NCUA Regulations, however, provide FCUs with the general authority to invest funds in the shares, stocks, or obligations of corporations.

You cite several sections of the FCU Act as providing "specific authorization" for SECU's participation in CFI programs. If you can provide greater detail regarding the mechanics of those programs and how they are authorized under the Act, we would be glad to render an opinion on their permissibility for FCUs. At this time, NCUA is not anticipating any changes in the regulations governing FCU participation in student loan programs. If FCU participation

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in CFI is determined to be impermissible, SECU would have to terminate its participation in CFI if it converted to a federal charter. Since SECU is federally insured, if FCUs may not participate in CFI and SECU does not convert to a federal charter, it would be required under Section 741.9(a)(3) of the Rules and Regulations, 12 C.F.R. §741.9(a)(3), to establish a special reserve for its investment in CFI.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

cc: H. Allen Carver, Region III Director

GC/LH:sg
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91-1108