



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

May 5, 1992

George Sutton, Commissioner
State of Utah
Department of Financial Institutions
P.O. Box 89
Salt Lake City, Utah 84110-0089

Re: Sponsorship of Credit Unions (Your
February 20, 1992, Letter)

Dear Mr. Sutton:

You asked the following questions. (1) Could a bank sponsor a credit union for its customers? (2) If a state statute allowed the organization of a stock holder owned credit union, would such a credit union be eligible for tax exemption and for National Credit Union Share Insurance Fund ("NCUSIF") insurance? Our answers are set forth below.

Customer credit union

We assume that you are asking whether a credit union sponsored by a bank for its customers could receive a federal charter. It could not. In order to qualify for a federal credit union charter, a group must possess either an occupational, associational, or community common bond. The only one of these three categories conceivably applicable to bank customers is the associational common bond. However, the NCUA Chartering and Field of Membership Manual (IRPS 89-1 (54 Fed. Reg. 31165, 7/27/89)), specifically states, at page 1-2 (copy enclosed) that "associations based on a client or customer relationship - an insurance company's customers or a buyer's club, for example" do not have a sufficient associational common bond to qualify for a charter. Under the Chartering Manual, a federal credit union for bank customers is not allowable. Of course, state law on this issue may be different.

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Stock holder owned credit union

It is not clear to us what you mean by a "stock holder owned credit union." Credit unions are, by definition, member-owned cooperatives. If the "credit union" would be owned by stockholders other than its members and operated for profit, such an institution would not, in our opinion, constitute a credit union.

Assuming that a state statute did permit the formation of such a "credit union," you ask whether the institution would be tax exempt. State chartered credit unions are tax exempt under Section 501(c)(14)(A) of the Internal Revenue Code if they are "credit unions without capital stock organized and operated for mutual purposes and without profit." Based on the description in your letter, it appears to us that the institution you describe would not qualify for a Section 501(c)(1)(A) tax exemption. However, our interpretation of the Internal Revenue Code is not binding on the IRS, and you should consult either the IRS or a tax attorney.

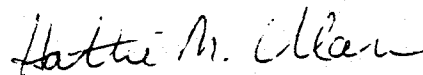
You also asked whether a stock holder owned credit union would be eligible for NCUSIF insurance. Again, in our view, the institution you describe would not be a credit union and would be ineligible on that basis. Furthermore, under Section 201 of the Federal Credit Union Act, 12 U.S.C. 1781, only "member accounts" are insured. The term member account is defined as "a share, share certificate, or share draft account [or their equivalents under state law] of a member of a credit union of a type approved by the [NCUA] Board which evidences money or its equivalent held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member" 12 U.S.C. 1752(5). (See, also, 12 C.F.R. §745.1.) Shares of stock of the type we believe you are referring to would not qualify as member accounts under this definition, and thus are not insurable. Section 741.14 of NCUA's Rules and Regulations, 12 C.F.R. §741.14, prohibits NCUSIF-insured credit unions from offering shares that are not eligible for insurance coverage. Therefore, a credit union that offered shares of stock in itself would not qualify for NCUSIF insurance. (While you did not indicate that the credit union in question would be a corporate credit

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union, we note that our answer on the insurance issue would be different for a corporate credit union under the proposed revision to NCUA's corporate credit union rule.)

I hope that we have been of assistance.

Sincerely,



Hattie M. Ulan
Associate General Counsel

Enclosure

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subsidiaries." The employer will be defined in the last clause describing the group.

Some examples of occupational group definitions are:

a. "Employees of the Scott Manufacturing Company who work in Chester, Pennsylvania...."

b. "Employees and elected and appointed officials of municipal government in Parma, Ohio...."

c. "Employees of Johnson Soap Company and its majority-owned subsidiary, Johnson Toothpaste Company, who work in Augusta and Portland, Maine...."

d. "Personnel of fleet units of the U.S. Navy home ported at Mayport, Florida...."

e. "Civilian and military personnel of the U.S. Government who work or are stationed at, or are attached or assigned to Fort Belvoir, Virginia, or those who are retired from, or their dependents or dependent survivors who are eligible by law or regulations to receive and are receiving benefits or services from, that military installation...."

f. "Employees of those contractors who work regularly at U.S. Naval Shipyard in Bremerton, Washington...."

g. "Employees, doctors, medical staff, technicians, medical and nursing students who work at Boston Medical Center at the locations stated:...."

h. "Employees and teachers who work for the School District Number 3 in Austin, Texas...."

Some examples of insufficiently defined occupational groups are:

a. "Employees of engineering firms in Seattle, Washington." (No common employer; names of firms must be stated; however, may be the basis for a multiple group.)

b. "Persons employed or working in Chicago, Illinois." (No common employer; names of firms must be stated.)

c. "Persons working in the entertainment industry in California." (No common employer; names of firms must be stated.)

2. *Associational Common Bonds.* NCUA limits this common bond to groups consisting primarily of individuals (natural persons) who

participate in activities developing common loyalties, mutual benefits, and mutual interests. Qualifying associational groups must hold meetings open to all natural person members at least once a year, must sponsor other activities providing for contact among natural person members, and must have an authoritative definition of who is eligible for membership—usually, this will be the association's constitution and bylaws. The clarity of the associational group's definition and compactness of its membership will be important criteria in reviewing the application. NCUA policy is to organize associational charters at the lowest organizational level which is economically feasible.

Student groups constitute an associational common bond and may qualify for a Federal credit union charter.

Associations formed primarily to obtain a credit union charter do not have a sufficient associational common bond; nor do associations based on a client or customer relationship—an insurance company's customers or a buyer's club, for example.

NCUA normally charters associational Federal credit unions consisting of natural person members. In certain instances, NCUA will allow nonnatural persons (e.g., corporate sponsor or organizations of members) to be eligible for membership.

Moreover, the common bond extends only to the association's members. The employees of a member of a local chamber of commerce, for example, do not have a sufficiently close tie to the association to be included. A proposal to include these persons among those to be served by the Federal credit union will be considered as a multiple-group charter application.

Homeowner associations, tenant groups, electric co-ops, consumer groups and other groups of persons having an "interest in" a particular cause and certain consumer cooperatives may be eligible to receive a Federal charter; however, they must make a strong showing of common activities and economic viability. Newly-organized associations must make a similar showing; experience has shown that a new group's efforts are best focused on solidifying member interest before attempting to offer credit union service.