

April 26, 2002

Maurice R. Smith, President
North Carolina Local Government Employees Federal Credit Union
801 Hillsborough Street, Suite 401
Raleigh, North Carolina 27603

Re: Member Deposits in Other Financial Institutions.

Dear Mr. Smith:

You have asked if a federal credit union (FCU) may offer its members the depository products of other financial institutions. We believe the incidental powers rule may authorize this activity if the FCU is acting as a finder. 12 C.F.R. §721.3(f). Before engaging in such a program, however, the FCU should clearly understand its limited role in a finder activity and consider any legal or safety and soundness issues related to this activity.

In a letter to this office and conversations with our staff, you have stated your FCU would like to assist members in purchasing federally-insured savings products from banks or other credit unions paying a higher yield than the share products offered by your FCU. You stated the FCU would provide members with "adequate disclosures," as well as any certificate issued by the bank or credit union, if available. You also stated the FCU does not intend to charge the members or the financial institutions for its services.

Under our incidental powers rule, an FCU may act as a finder, by introducing or bringing together outside vendors with its members so the two parties may negotiate and consummate transactions. 12 C.F.R. §721.3(f). An FCU may engage in finder activities through its role as a financial service provider and intermediary of financial services. 66 Fed. Reg. 40845, 40852 (Aug. 6, 2001). As a finder, the FCU may provide information to members about a vendor's products or services and perform administrative functions for the parties to the transaction. An FCU may, for example, negotiate group discounts or benefits on behalf of its membership. Also, although you stated your FCU does not intend to charge for this activity, an FCU may earn income when it engages in a finder activity as with all incidental powers activities. 12 C.F.R. §721.6.

We understand there may be circumstances when an FCU wishes to act as a finder of another financial institution's deposit products, for example, when a member's shares in the FCU are in excess of federal share insurance coverage. Nevertheless, before acting as a finder of deposit products, an FCU should consider the risks associated with the activity, including reputation risk and compliance risk. As with any incidental powers activity, the FCU must comply with any applicable state and federal laws and regulations. 12 C.F.R. §721.5. As you recognized, the FCU should ensure through disclosures that members are aware that the FCU is simply acting as a finder and that it is not the financial institution in which funds are

to be deposited. We note that, if an FCU is acting as a finder for another credit union's share products, it will also need to disclose or otherwise address with its members the question of whether members can qualify for membership in another credit union and the necessity of joining the other credit union in order to maintain a share account.

Based on the information you provided, we view your proposed program as permissible if it is conducted as a finder activity, and our opinion is limited to that activity.

Sincerely,

Sheila A. Albin
Associate General Counsel

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