

May 2, 1996  
William G. Berg  
Financial Management Services Specialist  
Florida Credit Union League, Inc.  
P.O. Box 3108  
Tallahassee, FL 32315-3108

Re: Security for Public Deposits (Your Letter of April 4, 1996)

Dear Mr. Berg:

You requested an opinion regarding the ability of a federal credit union ("FCU") to accept public deposits under Florida law. As we have previously stated, one FCU cannot serve as a guarantor against losses caused by other FCUs or federally insured state-chartered credit unions ("FISCUs"), as is required by Florida law (Fla. Stat. Ann. §280.07). Letter from Steven R. Bisker, Assistant General Counsel, to Maxwell W. Wells, Jr., Wells & Morrison, dated November 7, 1986 and Letter from me to you, Re: Florida Law: Security for Public Deposits, dated January 27, 1995 (both mentioned in your incoming request). This is because the guaranty activity is neither express nor incidental to an FCU. Nor does the NCUA Board permit such assumption of liabilities of other institutions. 12 U.S.C. §1785(b)(1)(C) and 12 C.F.R. §741.8. Serious safety and soundness issues would also be raised by the practice, if permitted.

Your representations that: (1) only credit unions would form the guarantor group for Florida public funds held in Florida FCUs; (2) no losses have yet occurred in bank and thrift guaranty pools of Florida public funds; (3) the Federal Deposit Insurance Corporation ("FDIC") insures such accounts held at FDIC-insured banks and thrifts ; and (4) credit unions are placed in a competitive disadvantage by not having such authority; are not germane to the issue of the permissibility of the activity. As you know, FCUs are unique financial institutions that do not have all the powers granted to FDIC insured banks and thrifts. Nor is competitive inequality alone sufficient to justify the creation of an incidental power. The agency's response to your inquiry must remain the same as it has been in the past.

Sincerely,

Richard S. Schulman  
Associate General Counsel

GC/MS:sg  
SSIC 3800  
96-0410  
cc: H. Allen Carver, Region III Director