

November 21, 1996

Linda M. Haglund, Investment Officer
Oregon State Treasury Investment Division
350 Winter Street, N.E., Suite 100
Salem, Oregon 97310-0840

Re: Insurance Coverage of §457 Deferred Compensation Plans
(Your August 27, 1996 Letter to NCUA's Region VI Office)

Dear Ms. Haglund:

Daniel Murphy, NCUA Region VI Director, forwarded your letter to our office to respond to your inquiry. In your letter, you indicate that the State of Oregon currently maintains a deferred compensation account with State Employees Credit Union and that the State is now changing the structure of its deferred compensation plan by providing for daily valuation and transfer and unallocated record keeping. Considering these changes, you request written confirmation that (1) the pro rata share of participant assets invested in the State's newly modified deferred compensation plan placed in a credit union are covered by NCUA insurance, and that (2) the coverage would apply up to \$100,000 per participant in each credit union where plan assets are placed consistent with the participant being a member in each institution. As discussed below, funds of a member participant placed in a credit union under the new deferred compensation plan are insured up to \$100,000 per participant.

ANALYSIS

Member accounts in federal credit unions and federally insured state credit unions are insured by the National Credit Union Share Insurance Fund ("NCUSIF"). 12 U.S.C. §1781. The term member is defined as "those persons enumerated in the credit union's field of membership who have been elected to membership in accordance with the Act or state law in the case of state credit unions." 12 C.F.R. §745.1(b). Share insurance of up to \$100,000 is available for all types of member share accounts received by a credit union in its usual course of business. 12 C.F.R. §745. "Funds deposited by an employer pursuant to a deferred compensation plan (including §401(K) of the Internal Revenue Code) shall be insured up to \$100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer." 12 C.F.R. §745.9-3. For a deferred compensation account to receive the extended or pass-through insurance coverage for each member participant, the plan must specifically set out the interest of each participant. 12 C.F.R. §745.2(c)(2).

Brian Witt, attorney for State Employees Credit Union, and Cecil Monroe, State Administrator, correctly concluded that under Oregon state law, participants in the State's deferred compensation plan would be considered members of State Employees Credit Union. Thus, each member participant's pro rata share of the assets invested in the plan would receive NCUSIF coverage, separately from any other account of the participant or employer. Further, you enclosed documents providing that a record keeper would supply a participating credit union with a report listing the names of all the participants in the plan, the total amount of funds on deposit with the credit union, and each participant's pro rata share of the total. Hence, if each participant's interest in the plan is properly disclosed to the credit union, then the plan would qualify for extended or pass-through insurance coverage of up to \$100,000 per member participant.

Sincerely,

Michael J. McKenna
Acting Associate General Counsel

GC/NSW:bhs
SSIC 3500
96-0927

cc: Region VI