

February 3, 1997

Re: Federal Credit Union's Cashing of Travelers Checks For Nonmembers
(Your December 10, 1996, Letter)

Dear :

You have written us expressing concern over the fact that federal credit unions ("FCUs") are not permitted to cash the American Express travelers checks of members from other FCUs and have asked us to consider avenues remedying the situation.

FCUs may only engage in activities that are either expressly authorized by the FCU Act or incidental to one of those express powers. 12 U.S.C. §1757. Incidental activities of a FCU are those activities considered "necessary or requisite to enable it to carry on effectively the business for which it is incorporated." 12 U.S.C. §1757(17). Section 107(12) of the FCU Act, authorizes FCUs "to sell to members negotiable checks (including travelers checks), money orders and other similar money transfer instruments, and to cash checks and money orders for members, for a fee." 12 U.S.C. §1757(12). Under this provision FCUs do not have the express authority to cash the travelers checks of nonmembers. This limitation is statutory, and not regulatory. Congress has promulgated the limits written into the FCU Act, and only Congress, and not NCUA, can revise those limits. However, FCUs have been allowed to cash the checks of nonmembers as an incidental activity where this service is a necessary prerequisite to providing an expressly authorized service to FCU members. For example, NCUA has determined that a FCU may cash the VISA travelers checks of nonmembers where VISA requires all financial institutions offering lines of credit through VISA cards to cash VISA travelers checks for all VISA cardholders. This activity is permitted as an incidental activity on the basis that it is a necessary prerequisite to providing members the expressly authorized services of check cashing, 12 U.S.C. §1757(12), and extending lines of credit, 12 U.S.C. §1757(5).

To our knowledge, American Express does not require an FCU to provide check cashing services to nonmembers in order to offer American Express services to its members. Therefore, cashing an American Express travelers check for a nonmember would not be an incidental activity. Consequently, there is no legal basis for NCUA to permit such an activity by a FCU.

Sincerely,

Michael J. McKenna
Acting Associate General Counsel

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96-1226

cc: Allen Carver
Region III Director