April 6, 1999

Alan D. Schwartz, Esq.
Leon G. Kushnetzky Professional Corporation
9201 Ward Parkway, Suite 304
P.O. Box 8579
Kansas City, Missouri 64114

Re: Share Insurance Coverage of Revocable Trusts.

Dear Mr. Schwartz:

You have asked about the extent of National Credit Union Share Insurance Fund coverage for a revocable inter vivos trust account with right of survivorship and payable-on-death provisions under 12 C.F.R. § 745.4. As more fully discussed below, the account is insured as a testamentary account, but the coverage may vary during the life of the trust.

You have asked us to assume the following facts. A husband and wife are co-grantors and co-trustees of a trust. Each spouse has full rights of modification and revocation.

Upon the death of either spouse, the surviving spouse becomes the sole trustee. While living, the husband and wife are the only current beneficiaries. Their two children are beneficiaries whose interests are contingent until the death of the last spouse to survive. A successor trustee then distributes the entire res of the trust to the two children and the trust terminates.

You posed the following specific questions regarding the trust.

While the husband and wife are both living, what is the insurance coverage on this account?

This account is considered a testamentary account and is insured as a form of individual account. If the named beneficiary of a testamentary account is a spouse, child, or grandchild, the account will be insured up to $100,000 separately from any individual account of the owner. 12 C.F.R. §745.4(b). Since the two children will receive the entire res of the trust upon the death of the surviving spouse, the account will be insured up to $100,000 as to each child, separately from any individual account of the owners, the husband and wife. The husband would be entitled to $100,000 insurance for each child. The wife would be entitled to the same coverage for a total of $400,000 on the account.

What is the insurance coverage upon the death of one spouse?

Upon the death of one spouse, the surviving spouse would be entitled to $100,000 coverage for each child. Therefore, the account would be insured up to $200,000.

If the credit union should become insolvent after the death of the last spouse to survive, but before distribution of the principal to the children, will this affect the insurance coverage?

No, the account would still be insured up to $200,000 until the successor trustee distributes the res of the trust to the children and the trust terminates.

The attached letters from me, dated July 3, 1997, and from Richard Schulman to Shara Runyan, dated October 18, 1996, provide additional discussion of insurance coverage for revocable living trusts and testamentary accounts that may be useful.

We caution you that a difference in a trust provision, such as a defeating contingency, may create a vastly different result in the amount of insurance coverage. We recommend that a settlor creating a trust should consult with his or her own legal counsel regarding this issue. For your information, under revised Federal Deposit Insurance Corporation (FDIC) regulations, effective April 1, 1999, revocable trust accounts in banks and thrifts now provide insurance up to $100,000, separately from any individual accounts of the settlor, for siblings and parents as beneficiaries, in addition to the coverage that has existed for many years for accounts for children, grandchildren, and spouses. 12 C.F.R. §330.10. NCUA plans to issue similar amendments to expand the coverage of §745.4 to include siblings and parents in the next few weeks.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/RMM:bhs
SSIC 3000
99-0208

Enclosures