

November 26, 1999

Fernando S. Soto, President/CEO  
White Earth Reservation Federal Credit Union  
P.O. Box 418  
777 Casino Road  
Mahnomen, Minnesota 56557

Re: Cashing Checks for Nonmembers, Your Letter Dated June 17, 1999.

Dear Mr. Soto:

You have requested that the Office of General Counsel provide you with an opinion regarding the permissibility of federal credit unions (FCUs) to cash checks for nonmembers. The FCU Act does not permit FCUs to cash checks for nonmembers.

You have proposed that the credit union cash checks drawn on other financial institutions by nonmembers that are payable to a member. The FCU would review the nonmember's credit and cash the check if the report is not derogatory. The check would be deposited into the member's account for collection. The FCU would charge the nonmember a fee for the service and would collect any fees for returned checks. In the enclosed letter to Carolyn Williams of your FCU, dated June 4, 1998, Phillip Crider, Region V Director, noted that cashing checks for nonmembers is impermissible. The practice proposed is not authorized by the FCU Act. In addition, Minnesota law would require the member/payee to endorse each check before the FCU could process them. See Minn. Stat. §336.3-205(a).

In discussions with me, you have offered alternatives to your proposal. Your first suggestion is basically a restatement of the proposal above. While the FCU Act does not authorize cashing checks for nonmembers, the member could deposit checks from nonmembers into its FCU account in compliance with Minnesota's Uniform Commercial Code. The member would be required to endorse checks made payable to it by the member's customers before depositing such checks into its account. The member could then withdraw those funds from its account. Please note that these transactions may trigger compliance with the Bank Secrecy Act or require the filing of suspicious activity reports.

You also mentioned providing cash advances from Visa credit cards to nonmembers. It is our understanding that your FCU is currently a credit participant member in the VISA program. The NCUA has deemed services to nonmembers as an incidental FCU power when: 1) the primary purpose of an FCU's permissible member service is to extend the service to its members; and 2) when the service offered to the membership requires that it also be made available to the public. The VISA program mandates that credit participant members provide cash disbursement services to cardholders. Therefore, if your FCU offers its members the opportunity to obtain cash advances on VISA cards, it may provide cash disbursements to nonmembers who request this service at the credit union's office.

Sincerely,

Sheila A. Albin  
Associate General Counsel

GC/CJL:bhs  
SSIC 3600  
99-0653  
Enclosures

cc: Region V