

March 14, 1992

Kristen D. Tatlock
Virginia Credit Union League
P.O. Box 11469
Lynchburg, Virginia 24506

Re: Relief Fund Accounts (Your February 14, 1992, Letter)

Dear Ms. Tatlock:

You are interested in some general guidance concerning "re- lief fund" accounts. These type of accounts are established so that people can make donations for the benefit of one or more members who have experienced a hardship of some sort. These accounts may be operated in various ways. Sometimes the members who will benefit from the relief fund have direct access to the account and other times an administrator will have access and distribute the funds when necessary. The re- cipients of the proceeds of this account will only be credit union members. It is possible to set up these types of ac- counts at federal credit unions under certain conditions.

ANALYSIS

A relief fund account can be established and insured under two sections of NCUA Regulations: Section 745.3 (Single Own- ership Accounts) (12 C.F.R. ~745.3) or Section 745.9-1 (Trust Accounts) (12 C.F.R. ~745.9-1).

Section 745.3 (Single Ownership Accounts)

Section 745.3 states, in pertinent part:

(a) Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to \$100,000 in the aggregate. * * * (2) Accounts held by agents or nominees. Funds owned by a principal and deposited in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to \$100,000 in the aggregate.

This type of account may be properly established only if the principal (in this case the recipient of the relief funds) is eligible for membership in the credit union. Any agent or nominee need not be a member of the credit union. This type of account may be suitable if you want the relief fund re- cipients to have direct access to the account.

Section 745.9-1 (Trust Accounts)

Section 745.9-1 states:

(a) For purposes of this section "trust" refers to an irrevocable trust. (b) All trust interests (as defined in subsection 745.2(d)(4)), for the same beneficiary, deposited in an account and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$100,000 in the aggregate, separately from other accounts of the trustee of such funds or the settlor or beneficiary of such trust arrangements.

Either the settlor or the beneficiary must be a member of the credit union before an irrevocable trust account

can be created. Membership of the trustee is irrelevant. This type of account may be suitable if you want the trustee to distribute the funds when necessary to the relief fund recipients.

Certain recordkeeping requirements must be met in order for an account to be insured as an irrevocable trust account.

In connection with each trust account, the credit union's records must indicate the name of both the settlor and the trustee of the trust and must contain an account signature card executed by the trustee indicating the fiduciary capacity of the trustee. In addition, the interests of the beneficiaries under the trust must be ascertainable from the records of either the credit union or the trustee, and the settlor or beneficiary must be a member of the credit union. If there are two or more settlors or beneficiaries, then either all the settlors or all the beneficiaries must be members of the credit union. 12 C.F.R. Part 745, Appendix G.

Thus, if the account is an irrevocable trust account, either the credit union or the trustee must maintain records of beneficiary interests.

Tax Issues

You have also asked what tax identification number should be put on these accounts as well as whether the account should be non-interest bearing to avoid problems with the Internal Revenue Service (IRS). We can not advise you on IRS requirements. We recommend that you contact the IRS or a tax attorney to determine how to comply with its regulations.

Sincerely,

Hattie M. Ulan
Associate General Counsel

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