

August 16, 1996

David A. Brewer, Esq.
Moore, Brewer & Burbott
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Suite 540
La Jolla, CA 92037-1474

Re: Individual Retirement Accounts ("IRAs")(Your Letter of July 12, 1996)

Dear Mr. Brewer:

You requested an opinion regarding the federal share insurance coverage of certain IRAs. You state that a federally insured, state chartered credit union ("FISCU") acts as a custodian for its members' IRAs. Federal credit unions can be trustee or custodian of member IRAs under certain conditions. We will assume that this a permissible activity for FISCU's under state law. FISCU members may elect to pool their IRAs with the IRAs of other FISCU members into a group trust, which invests in FISCU share certificates. Each IRA member-participant's interest is accounted for separately in the group trust.

The Internal Revenue Code permits the assets of an IRA trust to be commingled only in a common trust fund or common investment fund. 26 U.S.C. 408. We will assume that the FISCU's group trust is a permissible common trust fund or common investment fund under rules issued by the Internal Revenue Service. 26 C.F.R. 1.408-2, 5-7. Since the members' accounts remain IRAs, even when combined into a common trust fund or common investment fund, such accounts would be insured under Section 745.9-2 of NCUA's Rules and Regulations. Federal share insurance covers "the present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under . . . §408(a) (IRA) of the Internal Revenue Code. . . up to \$100,000 separately from other accounts of the participant or designated beneficiary." 12 C.F.R. 745.9-2(a). It is important to note that federal share insurance coverage for IRAs extends only to credit union members. The FISCU must also create and maintain good recordkeeping of each member's interest in any permissible IRA common trust fund or common investment fund. 12 C.F.R. 745.2(c).

Sincerely,

Richard S. Schulman
Associate General Counsel

GC/MS:sg
SSIC 7000
96-0723

cc: Daniel Murphy
Region VI Director