

October 18, 1996

Shara Runyan, CPCU, CLU, ChFC
Credit Union Manager
State Farm Missouri Federal Credit Union
4700 South Providence
Columbia, Missouri 65217-0001

Re: Insurance Coverage on Testamentary and Trust Accounts
(Your August 1, 1996 Letter)

Dear Ms. Runyan:

We apologize for the delay in responding to your request. You have asked us to explain the National Credit Union Share Insurance Fund ("NCUSIF") coverage of revocable and irrevocable trust accounts. Your questions and our answers are set forth below.

ANALYSIS

A. Revocable Trusts

Revocable trust accounts not deemed "testamentary" are considered agent accounts. 12 C.F.R. §745.4(a). The funds contained in an agent account shall be added to any individual accounts of the owner of the funds and insured up to \$100,000 in the aggregate. 12 C.F.R. §745.3(2). Revocable trusts, tentative or Totten trust accounts, payable-on-death accounts, and other similar accounts in which funds will pass to a beneficiary upon the death of the owner are considered "testamentary accounts." 12 C.F.R. §745.4(a). A testamentary account in which the named beneficiary is the spouse, child, or grandchild of the owner, is "insured up to \$100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary." 12 C.F.R. §745.4(b). If the named beneficiary is not the owner's spouse, child, or grandchild, then the funds in the account "shall be added to any individual accounts of such owner and insured by \$100,000 in the aggregate." 12 C.F.R. §745.4(c). You posed the following questions related to revocable trusts.

(1). Is the trustor or grantor of a revocable trust the owner of a trust account and not the trustee? NCUA Rules and Regulations provide that the person who holds the power of revocation is deemed the owner of the funds in the account. 12 C.F.R. Pt. 745, App. §B. Although a trustee holds legal title to property "in trust" for the benefit of a beneficiary, generally, the trustor, creator of the account, holds the power of revocation and is considered the owner of the funds in the account.

(2). Does each account (A & B) have separate NCUSIF coverage for \$100,000? In Account A, the Husband is the grantor, the Husband and Wife are named as trustees, and the beneficiaries are the spouse, children, and grandchildren. Account A contains \$125,000. In Account B, the Wife is the grantor, the Husband and the Wife are named as trustees, and the beneficiaries are the spouse, children, and grandchildren. Account B contains \$125,000. Both Accounts A and B receive separate insurance coverage. 12 C.F.R. §745.4(b). Since the beneficiaries named in each account are the spouse, children, and grandchildren of the owner, both accounts are insured up to \$100,000 in the aggregate as to each beneficiary, separately from any other accounts of the owner or beneficiary. 12 C.F.R. §745.4(b).

(3). Is the account insured for a maximum of \$100,000? In Account C, the Husband and Wife are the grantors and the named trustees of a family trust. The beneficiaries are a non-member marital trust and a

non-member family trust. The account contains \$125,000. In this case, the funds in Account C, potentially, could be uninsured. When the beneficiaries of a testamentary account are other than an owner's spouse, child, or grandchild, the funds in the account are added to any individual accounts of the owner and insured up to \$100,000 in the aggregate. 12 C.F.R. §745.4(c). In an account established by two or more grantors, the actual ownership interest of each grantor shall be added to any other accounts individually owned by the grantors and insured up to \$100,000 in the aggregate. 12 C.F.R. §745.8(c). Thus, the Husband's interest in Account C would be added to his interest in other individual accounts and insured up to \$100,000 in the aggregate. Likewise, the Wife's interest in the account would be added to her other individual accounts and insured up to \$100,000 in the aggregate.

(4) If the grantor of a trust is a non-member, but the trustee is an eligible member, is there any insurance coverage available for the Credit Union trust account, and if so, who would the insurance payments be paid to? For a testamentary account to receive NCUSIF coverage, the grantor must be a member of the credit union. Consequently, if only the trustee is a member of the credit union, then the account is ineligible for insurance coverage.

B. Irrevocable Trusts

For NCUSIF insurance purposes, a "trust" refers to an irrevocable trust. 12 C.F.R. §745.9-1(a). All trust interests established for the same beneficiary by the same grantor are added together and insured up to \$100,000 in the aggregate, separately from other accounts of the grantor, beneficiary, or trustee. 12 C.F.R. §745.9-1(b). You posed the following questions related to irrevocable trusts.

(1). If the member grantor sets up three irrevocable trusts, all naming a different beneficiary, and then opens three Credit Union trust accounts for each one, is each account insured separately up to \$100,000? Yes, the interest of each beneficiary in each account is insured to \$100,000 separately from other accounts held by the grantor, beneficiary, or trustee. 12 C.F.R. 745.9-1(b). Please note that all irrevocable trust accounts created by the same grantor for the same beneficiary will be viewed in the aggregate and insured only to the \$100,000 maximum. 12 C.F.R. §745.9-1(b).

(2). If the beneficiaries referenced in number one above are also members, how will the Credit Union trust account impact the insurance they have available on their individual or joint accounts? Establishing a trust account will not affect the insurance coverage available on other individual or joint accounts of the beneficiaries. A beneficiary's interest in a trust account is insured to \$100,000 separately from other individual or joint accounts held by the beneficiary, grantor, or trustee. 12 C.F.R. §745.9-1(b).

(3). If the grantor of a trust is a non-member, but the trustee is an eligible member, is there any insurance coverage available for the Credit Union trust account, and if so, who would the insurance payments be paid to? For an irrevocable trust account to receive NCUSIF coverage, either the grantor or the beneficiary must be a member of the credit union. 12 C.F.R. Pt. 745, App. If there are two or more grantors or beneficiaries of an irrevocable trust, then either all the grantors or all the beneficiaries must be members of the credit union to receive NCUSIF coverage. 12 C.F.R. Pt. 745, App.

We trust that this opinion has been responsive to your inquiry. For further guidance on the NCUSIF rules, enclosed is a copy of NCUA Rules and Regulations, Part 745 - Share Insurance and Appendix. If you have any additional questions, please contact either Nicole Williams, Staff Attorney, at 703-518-6567 or the NCUA's Region IV Division of Insurance at 708-245-1000.

Sincerely,

Richard S. Schulman
Associate General Counsel

GC/NSW:bhs
SSIC 8000
96-0804

cc: Region IV Director Veghts