November 4, 1998

Ms. Mary Isaacs
Trane Federal Credit Union
Post Office Box 443
LaCrosse, Wisconsin 54602

Re: Third Party Incentives for Selling Mechanical Breakdown Insurance.

Dear Ms. Isaacs:

Trane Federal Credit Union (Trane FCU) wants to offer mechanical breakdown insurance contracts to its members and provide cash incentives to its loan officers and possibly insurance staff for selling such contracts. One insurance vendor has offered to pay the cash incentives directly to the credit union's employees and handle all the tax requirements. You have asked whether a third party insurance vendor can pay incentives to a federal credit union's (FCU's) loan officers and insurance staff for selling mechanical breakdown insurance contracts if such contacts are considered insurance.

If the contracts are sold to insure vehicles financed by an FCU, such incentives are not permitted. Otherwise, employees, who are not directors, committee members, or senior employees, can receive third party incentives if an FCU's board determines that the employees' involvement does not create a conflict.

NCUA regulations permit FCUs to make insurance and group purchasing plans involving outside vendors available to their members and to perform administrative functions on behalf of the vendors. 12 C.F.R. §721.1. FCUs may be reimbursed or compensated by the vendors for performing such functions. The amount of reimbursement or compensation depends on whether the product is considered insurance and is directly related to an extension of credit. 12 C.F.R. §721.2(b)(1).

NCUA's group purchasing regulation and a conflict of interest provision in our lending regulation limit the compensation an FCU employee can receive in these circumstances. 12 C.F.R. §721.2(c), (d); §701.21(c)(8)(i). Under the group purchasing regulation, directors, committee members, and senior employees cannot receive any compensation or benefit, directly or indirectly, in conjunction with any insurance or group purchasing activity. 12 C.F.R. §721.2(c). However, FCU employees directly involved in insurance or group purchasing activities can receive compensation or benefit, as a result of group purchasing sales, if the FCU's board of directors determines that the employees' involvement does not present a conflict of interest. 12 C.F.R. §721.2(d)

Under NCUA's lending regulation, FCU employees cannot receive, directly or indirectly, any commission, fee, or other compensation in connection with a loan made by the FCU unless one of the exceptions in the regulation applies. 12 C.F.R. §701(c)(8). None of the exceptions, however, allow a third party to provide compensation to an FCU's employees for performing credit union activities. 12 C.F.R. §701(c)(8)(iii).

Here, the Trane FCU loan officers and insurance staff selling mechanical breakdown insurance contracts would be directly involved in an insurance or group purchasing activity. If the credit union's board of directors determined that the employees' involvement did not constitute a conflict, they could receive third party incentives for selling mechanical breakdown insurance contracts under the group purchasing regulation. However, if the mechanical breakdown insurance contracts are sold to insure vehicles financed by the credit union, our view is that, under the lending regulation, the sale of such contracts would be in connection with a loan. None of the exceptions in the lending regulation would apply to permit the incentives.

Sincerely,

Sheila A. Albin
Associate General Counsel

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SSIC 3500
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