

November 21, 1999

Dean Reineking, Vice President  
First Tennessee Capital Markets  
845 Crossover Lane, Suite 150  
Memphis, TN 38117

Re: Investments in Obligations of State and Political Subdivisions.

Dear Mr. Reineking:

You have asked the following two questions: 1) Are municipal obligations of a single issuer limited to 10% of shares and deposits plus undivided earnings? and 2) Does the limitation in question number one apply to general obligations of a state or public subdivision? As explained below, the answer to the first questions is a qualified yes and the answer to the second question is no.

#### ANALYSIS

Section 107(7)(K) of the Federal Credit Union Act permits federal credit unions to invest in:

. . . obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer).

Section 703.100(f) states that a federal credit union "may purchase and hold a municipal securities only if a nationally recognized statistical rating organization (NRSRO) has rated it in one of the four highest rating categories."

Section 1(g) and (h) of Article XVIII of the Standard Federal Credit Union Bylaws defines both "paid in and unimpaired capital" and "surplus." 64 F.R. 55760, 55573 (October 14, 1999). Paid in and unimpaired capital is defined "as of a given date, means the balance of the paid-in share accounts as of such date, less any losses that may have been incurred for which there is no reserve or which have not been charged against undivided earnings." Surplus is defined "as of a given date, means the credit balance of the undivided earnings account on such date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, as the case may be. Reserves are not considered as part of the surplus." This is essentially the same definition used in 12 U.S.C. 1795(a)(3) that you cited.

In general, the term "unimpaired capital and surplus" equates to total member shares plus undivided earnings (assuming that losses do not exceed existing reserves). Therefore, the limitation in section 107(7)(K) generally equals 10% of the federal credit union's shares plus

undivided earnings.

Finally, this 10% limitation does not apply to the general obligations of an issuer, which includes state or political subdivisions.

Sincerely,

Sheila A. Albin  
Associate General Counsel

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