

September 10, 2001

Carlos Figueroa, Managing Director
Shay Financial Services
1000 Brickell Avenue
Suite 700
Miami, Florida 33131

Re: FCU Purchase of Certificates of Deposit Through an Introducing Broker.

Dear Mr. Figueroa:

You have asked if a federal credit union (FCU) may purchase certificates of deposit (CDs) from an SEC-registered broker-dealer through an introducing broker who is neither an SEC-registered broker-dealer nor a depository institution. As discussed below, the answer is no.

The NCUA investment rule provides that, for CDs and share certificates not purchased directly from the issuer, an FCU “may use a third-party entity to buy or sell investments (a ‘broker-dealer’) as long as the third party is registered with the Securities and Exchange Commission (SEC) . . . or is a depository institution whose broker-dealer activities are regulated by a federal regulatory agency.” 12 C.F.R. §703.50(a), (c). As stated in a recent NCUA letter to FCUs:

[This language] means that you may not purchase a brokered CD from an unregistered firm or individual. The fact that an individual is associated with a registered firm is insufficient. The individual must also be a registered representative.

NCUA Letter to Federal Credit Unions (LFCU), No. 01-FCU-04, issued April, 2001 (attached). In our view, §703.50 requires that all parties with whom an FCU has contact in connection with a brokered CD sale, including confirming brokers, introducing brokers, finders, and other intermediates, either be registered with the SEC or be depository institutions regulated by a federal regulatory agency.

Please note that our investment rule applies only to investments purchased by FCUs. We suggest you contact the appropriate state regulators for guidance concerning investments purchased by state-chartered credit unions.

Also, you mentioned that in some cases you use a corporate FCU as a finder. A corporate FCU is a depository institution whose broker-dealer activities are regulated by NCUA, a federal regulatory agency, and thus our investment rule would not require the corporate to register with the SEC for finder activities involving brokered CDs and share certificates.

Sincerely,

Sheila A. Albin
Associate General Counsel

OGC/PMP:bhs
SSIC 4660
01-0616

Attachment