

May 7, 2002

Edward Boughal, President/CEO
Suffolk Federal Credit Union
3681 Horseblock Road
P.O. Box 9005
Medford, Long Island, NY 11763

Re: Guaranteeing Deposits.

Dear Mr. Boughal:

My letter to Conrad Schlund dated April 5, 2002, concerning the permissibility of a federal credit union (FCU) pledging a security as collateral for deposits or shares in excess of \$100,000, incorrectly states that an FCU may pledge the loans of its members as collateral for shares. As explained in the attached letter from me to Christopher Turner dated July 31, 1997, an FCU may only pledge its loans to secure obligations. An FCU may not pledge its loans to secure shares, which are considered equity, except for the limited purpose of receiving public monies of the United States, states, local governments, or political subdivisions. 12 U.S.C. §1767(b). Enclosed is a revised version of my April 5 letter to you that reflects NCUA's current interpretation.

I apologize for any confusion this may have caused.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/MFR:bhs
SSIC 3000
02-0504a

Enclosures

cc: Lynn Lodge, Analyst, Region I

May 7, 2002

Conrad Schlund, Compliance Manager
Suffolk Federal Credit Union
3681 Horseblock Road
P.O. Box 9005

Medford, Long Island, NY 11763

Re: Guaranteeing Deposits.

Dear Mr. Schlund:

You have asked if a federal credit union (FCU) may pledge a security as collateral for deposits or shares in excess of \$100,000 from two of its members, a county public library and a state public library. An FCU may not pledge its securities as collateral for shares.

As noted in your letter, an FCU's express powers are in §107 of the Federal Credit Union Act. 12 U.S.C. §1757. There is no authority for an FCU to act as a guarantor by pledging its securities except for the limited purpose of receiving public monies of the United States, states, local governments, or political subdivisions thereof. 12 U.S.C. §1767(b). A public library does not qualify as a political subdivision. 12 C.F.R. §745.1(d). As explained in the attached letter from me to Christopher Turner dated July 31, 1997, an FCU is not permitted to pledge its eligible obligations to secure shares.

The NCUA Board recently revised its regulations to include an FCU's incidental powers. 12 C.F.R. Part 721. Section 721.2 states the test to determine whether an activity is authorized as an appropriate FCU incidental power. Section 721.3 establishes categories of activities the NCUA Board has identified as within an FCU's incidental powers. Guaranteeing the losses of a member is neither one of the preapproved categories of incidental powers nor does it meet the three-prong test of what is an appropriate exercise of an FCU's incidental powers. Such an activity would pose substantial new risks for an FCU. Further, case law provides that such authority must be expressly provided and cannot be said to be implied or incidental.

You also suggest purchasing your "own insurance" to cover amounts exceeding \$100,000. Your office indicated to Staff Attorney Mary Rupp of this office that, although you have not explored this avenue, you are interested in purchasing insurance similar to the share insurance you have with the National Credit Union Share Insurance Fund. NCUA would not object to the purchase of excess share insurance from a private insurer if that option were available for individual accounts.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/MFR:bhs

SSIC 3000
02-0269a

Enclosure

cc: Lynn Lodge, Analyst, Region I