

September 9, 2003

Barbara Horn, CEO
Cedar Point Federal Credit Union
22745 Maple Road
Lexington Park, MD 20653

Re: Membership Eligibility of Charitable Remainder Unitrust.

Dear Ms. Horn:

You have asked if an irrevocable charitable remainder unitrust is eligible for membership in a federal credit union if the settlor and the current beneficiary are credit union members and the trustees are eligible for membership. The trust, itself, is not eligible for membership because the beneficiary for the remainder interest is unknown in your case. The credit union may, however, establish an insured account for the trust.

Our understanding of a charitable remainder unitrust is that it is a type of irrevocable trust that enables an individual to make a charitable donation of money or property effective at a future time, with another person designated in the interim, known as the current beneficiary, to receive a percentage of the income earned by the donated assets. The current beneficiary may receive the income either for a term of years or for the beneficiary's lifetime. At the end of the specified term, the remaining trust assets go to a designated charity, known as the remainder beneficiary.

A federal credit union may include in its field of membership, in addition to the primary description of the group or groups of individuals eligible for membership, a provision to include "organizations of such persons." NCUA Chartering and Field of Membership Manual, March 2003, Chapter 2. We have interpreted this provision to provide the basis for a trust, itself, to be a member if all parties to the trust, including all settlors, beneficiaries and trustees, are within the field of membership. This is discussed in OGC Legal Opinion Letter 99-1110, dated February 25, 2000, available on the agency website. In this case, because the remainder beneficiary is unknown, the trust does not presently qualify for membership as an organization of such persons. When the remainder beneficiary is known, the trust could become a member in its own right if the remainder beneficiary is within the field of membership.

Although the trust, itself, does not presently qualify for membership, a federally insured credit union may establish an insured account for the trust under the NCUA's rules governing the insurance of irrevocable trust accounts. Irrevocable trust accounts are insurable if either all the settlors or all the beneficiaries are members of the credit union. 12 C.F.R. Part 745 App., § G. In this case, there is only one settlor who is a member. Accordingly, the credit union may establish an account for the trust, even though one of the beneficiaries is presently unknown.

Sincerely,

Sheila A. Albin
Associate General Counsel

OGC/RPK:bhs
03-0817