

September 10, 2003

Richard T. Wargo, Jr. Esq.
Sr. Vice President/General Counsel
Pennsylvania Credit Union Association
4309 North Front Street
Harrisburg, Pennsylvania 17106-0007

Re: Payroll Cards.

Dear Mr. Wargo:

Regional Director Edward Dupcak has asked this office to respond to your inquiry as to whether a federal credit union (FCU) may provide payroll cards as a replacement for payroll checks a member distributes to its employees. Yes, it is within the FCU's incidental powers to offer this service to its member.

Your association owns a company that would like to provide payroll card services to credit unions. You have asked if an FCU may offer payroll cards to its sponsor that is a member of the FCU. Payroll cards are stored value payment cards. Through the services of the association's company, payroll cards are produced and sent to the sponsor's employee's homes. The FCU places the employees pay on the card through a direct deposit arrangement between the employee and employer, the FCU's sponsor-member. The employee-cardholder activates the card over the web or by phone and may use these methods to replenish the balance on the card. Cardholders can access their funds through automated teller machines (ATMs); use the cards at point-of-sale terminals in stores that accept the underlying payment brand, MasterCard or Visa; and obtain balance information through the Internet, telephone, and ATMs. Payroll cards may be particularly helpful for the sponsor's unbanked employees because they no longer need check cashing outlets.

FCUs may provide electronic financial services, which are defined as services, products, functions, or activities that an FCU is otherwise authorized to perform, provide, or deliver to its members but performed through electronic means. 12 C.F.R. §721.3(c). These services include ATMs and electronic fund transfers. Our office has issued several opinions recognizing an FCU's ability to make disbursements on behalf of a member to third parties. In the attached OGC legal opinion 95-1236, dated January 29, 1996, we stated that an FCU, as incidental to its authority to receive shares from a member, may make disbursements on behalf of that member to third parties, such as its sponsor's payroll checks to nonmember employees. These opinions, like others concerning point-of-sale terminals or federal wire transfers, authorize an FCU to offer services to assist members in financial transactions that the FCU is either better situated than the member or uniquely able to conduct as a financial institution. An FCU, therefore, may offer electronic stored value products, like a payroll card, to its member as a means for making disbursements to third-parties from the member's share draft account.

We note that our analysis finds the activity permissible as an incidental powers activity within paragraph (c) of §721.3, which covers electronic financial services, rather than paragraph (k), which authorizes FCUs to issue stored value products to members. While the proposed activity may result in nonmembers obtaining stored value cards branded by the FCU, the activity is permissible because the FCU is providing a financial service through electronic means to its sponsor, a member of the FCU, by offering an alternative to share drafts.

Sincerely,

Sheila A. Albin
Associate General Counsel

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03-0908
Enclosure