

September 4, 2007

Mr. Alec Berkman
Executive Compensation Solutions
510 S. Grand Avenue, Suite 302
Glendora, CA 91741

Re: Guidelines for Investing to Fund Employee Benefits.

Dear Mr. Berkman:

You have asked us to issue guidelines for federal credit unions (FCUs) on investing to fund employee benefits under §701.19 of NCUA's rules and submitted draft guidelines you prepared.¹ We appreciate your interest, however, our practice is not to review and approve materials such as you provided.

The guidance you provided summarizes Office of the Comptroller of the Currency Bulletin 2004-56 (OCC 2004-56) including an interagency statement issued by federal banking regulators on bank owned life insurance (BOLI). It notes BOLI can be useful to recover costs associated with employee benefits but expresses concern that some banks have invested capital in BOLI without an adequate understanding of the risks. The statement provides general guidance to banks for the purchase and risk management of BOLI to help ensure their risk management processes are consistent with safe and sound banking practices.

In your letter, you do not suggest that BOLI is an investment available to FCUs. Rather, by summarizing OCC 2004-56, you are highlighting more generally the kinds of safeguards an FCU could employ when investing in any kind of investment product. We agree the thrust of the guidelines in OCC 2004-56 may be useful to FCUs investing to fund an employee benefit plan obligation under §701.19. The guidelines describe good practices for making responsible investment decisions and enhance safety and soundness. If an FCU has questions about the permissibility of a particular investment to fund employee benefits, they should consult the appropriate NCUA regional office.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

OGC/FSK:bhs/07-0332

¹ Section 701.19 exempts an FCU from the investment restrictions of the FCU Act and NCUA rules when it invests to fund employee benefit plan obligations, provided, among other regulatory limits, there is a direct relationship between the investment and the employee benefit plan obligation it serves to fund. 12 U.S.C. 1757(7), (8), (15); 12 U.S.C. 1761b(12); 12 C.F.R. Part 703; 12 C.F.R. §701.19. NCUA Office of General Counsel Legal Opinions 03-0512 and 04-0453 (available on NCUA website at www.ncua.gov).