

October 23, 2009

David Adams, Chief Executive Officer  
Michigan Credit Union League  
101 S. Washington Square, Suite 900  
Lansing, MI 48933

Re: Pass-Through Insurance for Deposit/Share Placement Service.

Dear Mr. Adams:

You have asked if the National Credit Union Share Insurance Fund (NCUSIF) would insure funds from public municipalities invested at federally-insured credit unions (FICUs) through a placement service, similar to the Certificate of Deposit Account Registry Service (CDARS). Yes, FICUs could participate in a share or deposit placement service and the NCUSIF would insure funds from public municipalities on a pass-through basis, subject to proper disclosure and titling and recordkeeping requirements.

We understand that CDARS is a deposit placement service Promontory Interfinancial Network, a financial services technology company, offers to banks insured by the Federal Deposit Insurance Corporation (FDIC). Briefly summarized, using the CDARS service, a bank is able to accept large deposits from its customers and, on behalf of the customer, spread the deposits in excess of FDIC insurance limits to other FDIC-insured banks, so the funds are fully insured. In 2003, the FDIC issued an opinion stating the deposits are eligible for deposit insurance as custodial accounts on a pass-through basis. FDIC Op. 03-03 (July 29, 2003).

FICUs could participate in a share placement service similar to CDARS but it would most likely be feasible only for funds from "public units," which includes states, municipalities, and political subdivisions. 12 C.F.R. §745.1(c). Although, generally, NCUSIF coverage only extends to member accounts, federal credit unions, and we believe most state-chartered credit unions, may accept funds from public units or government depositors without regard to membership. 12 U.S.C. §§1752(5), 1757(6). For purposes of NCUSIF coverage, nonmember public unit accounts are insured as member accounts. 12 C.F.R. §745.1(b).

Careful titling and recordkeeping for accounts established through a placement service would be crucial, needing to disclose the custodial relationship, in order to provide flow-through insurance coverage. Under NCUA's share insurance rules, a beneficial owner of FICU shares is entitled to receive NCUSIF insurance coverage if: (1) the beneficial owner is a member of the FICU or otherwise

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eligible, as is the case for public units, to maintain an insured account at the FICU; (2) the FICU's account records disclose the existence of a relationship that may provide a basis for coverage; and (3) the records of the FICU or the beneficial owner maintained in good faith and in the regular course of business identify the beneficial owner and the extent of the owner's interest. 12 C.F.R. §745.2(c). The titling language on the account and account records must indicate the custodial relationship and that those funds are being held for the beneficial owner, namely a public unit.

Finally, we note that funds from public units at a FICU may not exceed the greater of 20% of the total shares of the credit union or \$1.5 million, unless a greater amount is approved by the appropriate NCUA regional director or the FICU qualifies for the RegFlex designation. 12 C.F.R. §§701.32(b), 741.204, 742.4(a)(2).

If you have any further questions, please feel free to contact Staff Attorney Tonya Green or me.

Sincerely,

/S/

Sheila A. Albin  
Associate General Counsel

OGC/MIG/SAA:bhs  
09-1022