

December 4, 2009

Rosemary Brady Hardiman, Esq.
Federal Credit Union Counsel
P. O. Box 861
Bethany Beach, DE 19930

Re: Share Insurance Coverage for 529 Accounts.

Dear Ms. Hardiman:

You requested clarification regarding share insurance coverage of qualified tuition savings program accounts (529 accounts). Specifically, you asked whether 529 accounts are insured as public units or as member accounts. Under NCUA share insurance rules, 529 accounts may be insured as public units or, on a pass-through basis, so long as membership and traceability requirements are met.

Several states have established qualified tuition savings programs under the Internal Revenue Code (IRC) and are placing the funds in federally-insured credit unions. One of the requirements for qualified tuition savings programs under the IRC is that participants acquire an interest in a state trust instead of depositing funds directly with a financial institution. See 26 U.S.C. 529(b).

Because 529 account funds are maintained in a state-sponsored trust, NCUA may treat the state or, under certain conditions, a participant as the owner of the funds to determine share insurance coverage. In 2006, NCUA amended its share insurance rules to permit pass-through share insurance coverage for 529 program participants. 71 F.R. 56001 (September 26, 2006) (codified at 12 C.F.R. §745.3(a)(2)). If the participants are members of the credit union where a 529 account is held and each participant-member's interest can be ascertained from credit union or state records, the member's interest in the 529 account will be aggregated with the member's other single ownership account(s) and insured up to the standard maximum share insurance amount. 12 C.F.R. §745.3(a)(2). Alternatively, if participants are not members of the credit union holding the 529 accounts or each participant's interest cannot be ascertained, NCUA will insure the funds as public units or government deposits. 12 C.F.R. §745.10.

You also asked whether there is a limit on the number of custodians a state can designate for its 529 program funds to receive share insurance coverage. No, there is no limit on the number of custodians a state can have. The maximum

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Page 2

amount of all public units a federally-insured credit union may accept, however, cannot exceed the greater of 20% of its total shares or \$1.5 million, unless the credit union has a waiver from the regional director or is a RegFlex credit union. 12 C.F.R. §§701.32, 741.204(a), 742.4(a)(2).

If you have any further questions, please feel free to contact Staff Attorney Tonya Green or me at (703) 518-6540.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

OGC/MIG:bhs
09-1067