

November 4, 1991

Jim Summers  
Sumter Area  
Operations Manager  
SAFE Federal Credit Union  
P.O. Box 2008  
Sumter, SC 29151-2008

Re: Payable-on-Death (POD) Account Records (Your Letter of August 28, 1991)

Dear Mr. Summers:

You requested an opinion regarding whether the title on an account must note that it is a POD account when the credit union maintains a separate "POD Designation" form pertaining to such accounts. We did not receive your request from the regional office in Atlanta until October 9, 1991. As long as the "POD Designation" form is maintained as an account record of the credit union, it should be sufficient to classify the account as a POD account for National Credit Union Share Insurance Fund ("NCUSIF") purposes.

#### BACKGROUND

SAFE FCU permits members to complete a "POD Designation" form for any deposit account other than special accounts such as individual retirement accounts, custodial and trust accounts. The POD designation is not documented in any other way, including the title of the accounts. In pertinent part, the "POD Designation" form reads:

I hereby designate account number \_\_\_\_\_, suffix \_\_\_\_\_, as payable on death funds. As that term is defined under South Carolina law, to be paid only in the event of all the following person(s) designated as original payee(s),

Primary Owner \_\_\_\_\_

Joint Owner \_\_\_\_\_

Joint Owner \_\_\_\_\_

being deceased, and the following person(s) designated as POD payee(s)

Payee 1 (Percentage, Social Security Number, Name, Telephone and Address Information)

Payee 2 (Percentage, Social Security Number, Name, Telephone and Address Information)

Payee 3 (Percentage, Social Security Number, Name, Telephone and Address Information)

The "POD Designation" form concludes with the notarized or witnessed signatures of the account owners.

#### ANALYSIS

Section 745.2 of the NCUA Rules and Regulations states in pertinent part: "[t]he account records of the insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds

in the account are deposited and on which a claim for insurance coverage is founded." 12 C.F.R. ~745.2(c)(1). Furthermore, the NCUSIF permits account relationships which may be the basis for additional share insurance to be ascertainable "either from the records of the credit union or of the member maintained in good faith and in the regular course of business." 12 C.F.R. ~745.2(c)(2). From your representations, it seems that the "POD Designation" form is a credit union account record that may serve as the basis of additional NCUSIF share insurance. However, the NCUA considers it better practice for account classifications to be noted in the account title on the account signature card, computer entries and other pertinent records of a credit union. This information assists the liquidating agent of an insured credit union in determining share insurance claims of a liquidating credit union. Clear recordkeeping is essential.

A POD account is treated as a testamentary account for NCUSIF share insurance purposes. 12 C.F.R. ~745.4(a). Therefore, only if the named beneficiary(ies) of the POD account is a spouse, child, or grandchild of the owner, will the account be insured up to \$100,000 in the aggregate for each such beneficiary separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary. 12 C.F.R. ~745.4(b). If the named beneficiary of a testamentary account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured up to \$100,000 in the aggregate. 12 C.F.R. ~745.4(c). We note that if the facts or law changes that this determination should be reviewed again.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

91-1008  
SSIC 7000  
GC/MEC:sg  
Enclosure

cc: Allen Carver, Region III Director