

February 10, 1993

Sheryl P. Durham, CFA
Vice President
The Glenmede Trust Company
229 South 18th Street
Philadelphia, PA 19103-6194

Re: Federal Credit Union Investments (Your December 29, 1992, Letter)

Dear Ms. Durham:

You propose that The Glenmede Trust Company (Glenmede) offer investment advisory services to federal credit unions (FCUs), with Glenmede acting as custodian for the securities and using a subcustodian for safekeeping and related services. You state that an FCU could have its funds managed on an individual account basis or invested in the Glenmede Fund, Inc. Funds managed on an individual account basis would be held in a subcustodian account at Chemical Bank, maintained in Glenmede's nominee name and segregated from Glenmede's own assets. Funds invested in the Glenmede Fund also would be held at Chemical Bank in a separate account. The custodial services provided by Glenmede include collecting and accounting for dividend, interest, and principal payments, and depositing clients' securities in separate safekeeping accounts at Chemical Bank. These accounts are insured by the Depository Trust Company, Chemical Bank, and Glenmede.

You have asked whether the National Credit Union Administration (NCUA) has a specific objection to an FCU using both the investment advisory services and the custodial services of a trust company when the FCU's assets are placed by the trust company in a separate safekeeping account with a third party.

Analysis

Neither the FCU Act nor the NCUA Rules and Regulations specifically address the issue of securities safekeeping. Section 6061.5.2 of the NCUA Accounting Manual for Federal Credit Unions, however, provides as follows:

The board [of the FCU] should establish investment policies which will protect securities held in safekeeping. The policies require that:

- a. All securities not in the physical possession of the credit union should be held in a third party (a bank or other financial institution) safekeeping account. A separate trust division of a bank acting as a dealer qualifies as a third party safekeeping institution.
- b. All securities held in safekeeping should be evidenced by a safekeeping receipt and/or a periodic statement of account from the safekeeping institution.

In establishing a safekeeping account, cost and service should be considered. The broker's bank may be used for safekeeping services. However, safekeeping agreements should provide that all transactions will be ordered only by a duly authorized employee or official of the credit union. If the safekeeping institution is to be used to transmit credit union funds for purchases of securities, the agreement should provide that the funds will not be transferred until the securities are received by the institution.

Safekeeping services should be covered by a "bailment for hire" contract. Under this arrangement, the institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping. Unless specifically covered by statute or contract, the institution is not an insurer of the securities. It is liable only for negligence in caring for and protecting the securities.

Since the Accounting Manual does not have the force and effect of law, failure to comply with its guidelines would not be illegal; such a failure, however, could present safety and soundness problems. Based on the limited information presented, we do not have a specific objection to the proposed arrangement. We would, however, recommend that an FCU have its own counsel review the proposal for safety and soundness. We also note that for the Glenmede Fund to be a permissible investment for FCUs, all investments and investment practices of the Fund must be permissible for FCUs. See Sections 107(7), (8) & (15) of the FCU Act, 12 U.S.C. 1757(7), (8) & (15) and Part 703 of the NCUA Rules and Regulations, 12 C.F.R. 703, attached.

Sincerely,

Hattie M. Ulan
Associate General Counsel

Attachment

GC/LH:sg
SSIC 4660
92-1248