

June 13, 1996

Elaine Kopf  
212-D Covered Bridge Road  
Manalapan, NJ 07726

Re: Share Insurance (Your Letter of May 29, 1996)

Dear Ms. Kopf:

You requested a legal opinion regarding National Credit Union Share Insurance Fund ("NCUSIF") coverage of credit union share accounts. Your questions centered upon differences between testamentary accounts and joint accounts.

For NCUSIF purposes, a testamentary account is a "revocable trust account, tentative or 'Totten' trust account, 'payable-on-death' account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to the named beneficiary." These rules, a copy of which we are enclosing, can be found at Title 12, Code of Federal Regulations, Part 745.4 and 745.8. If the beneficiary of such an account is a "spouse, child, or grandchild of the owner", the account is entitled to \$100,000 maximum NCUSIF account insurance "separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary." Section 745.4(b). If the beneficiary is not within the required bonds of kinship, the accounts are added to the single ownership accounts of the owner and NCUSIF-insured up to \$100,000 in the aggregate. Section 745.4(c).

For NCUSIF purposes, joint accounts include "accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property." Section 745.8(a). Joint accounts are insured up to the \$100,000 maximum "provided that each of the co-owners has personally signed an account signature card and has a right of withdrawal on the same basis as the other co-owners." Section 745.8(b). All funds invested in joint accounts owned by the same combination of individuals are added together and insured to the \$100,000 maximum. Section 745.8(d). Where a member has an interest in more than one joint account and different joint owners are involved, the member's interests in all of such joint accounts are then added together and insured to \$100,000 in the aggregate. Section 745.8(e). For NCUSIF purposes, the co-owners of any joint account are deemed to have equal interests in the account, except in the case of a tenancy in common. Part 745, Appendix Section F. With a tenancy in common, equal interests are presumed unless otherwise noted in the credit union's records. Accounts that do not qualify as joint accounts for NCUSIF purposes are insured as if owned by the named persons as individuals. Section 745.8(c). In that case, the actual ownership interest in the account of each person is added to any other single ownership accounts of that person and insured up to \$100,000 in the aggregate.

You asked what the maximum amount of federal share account insurance available would be for the following grouping of accounts:

1. Account #1, Husband and Wife in trust for Child #1 and Child #2;
2. Account #2, Husband and Child #1;
3. Account #3, Husband and Child #2;
4. Account #4, Wife in trust for Child #1 and Child #2; and

## 5. Account #5, Husband and Wife.

Applying your scenario to the NCUSIF insurance rules discussed previously, the accounts can be defined as follows: (1) Account #1-- testamentary account (an account in trust for children); (2) Account #2 -- joint account (an account between two parties, assuming co-equal withdrawal rights); (3) Account #3 -- joint account (an account between two parties, assuming co-equal withdrawal rights); (4) Account #4 -- testamentary account (an account in trust for children); (5) Account #5 -- joint account (an account between two parties, assuming co-equal withdrawal rights). For purposes of this discussion, the testamentary accounts will be considered together and the joint accounts will be considered together:

### 1. Testamentary Accounts.

The total amount of maximum NCUSIF testamentary account classification insurance for the hypothetical accounts amounts to \$400,000, illustrated as follows:

(Account #1) Husband's testamentary account insurance -- \$200,000 (\$100,000 for each beneficiary, that is, Child #1 and Child #2);

(Account #1) Wife's testamentary account insurance -- \$200,000 (\$100,000 for each beneficiary);

(Account #4) Wife's testamentary account insurance -- \$0 (insurance is per account classification (testamentary) per beneficiary and this account has the same beneficiaries as Account #1);

### 2. Joint Accounts.

The total amount of maximum NCUSIF joint account classification insurance for the hypothetical accounts amounts to \$250,000 (\$83,333.33 per each account), illustrated as follows:

(Accounts #2, #3, and #5) Husband's joint account insurance -- \$100,000 (\$33,333.33 from Account #2, \$33,333.33 from Account #3, and \$33,333.34 from Account #5)(joint accounts are insured up to \$100,000 per account with different combinations of individuals -- in this case \$100,000 divided by three accounts is \$33,333 per each of Husband's joint accounts, for a total of \$100,000);

(Account #2) Child #1's joint account insurance -- \$50,000 (joint accounts are insured up to \$100,000 per account with different combinations of individuals -- in this case \$100,000 divided by two accountholders is \$50,000);

(Account #3) Child #2's joint account insurance -- \$50,000 (joint accounts are insured up to \$100,000 per account with different combinations of individuals -- in this case \$100,000 divided by two accountholders is \$50,000); and

(Account #5) Wife's joint account insurance -- \$50,000 (joint accounts are insured up to \$100,000 per account with different combinations of individuals -- in this case \$100,000 divided by two accountholders is \$50,000).

We trust that this opinion has been responsive to your inquiry. If you have further questions, please contact either Sparky Conrey, Staff Attorney, at (703) 518-6540, or the NCUA's Region II Division of Insurance, at (703) 838-0401.

Sincerely,

Richard S. Schulman  
Associate General Counsel

cc: Jane A. Walters, Region II Director

GC/MS:sg

SSIC 7000

96-0601a

Enclosure