



June 21, 2006

Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

Re: North Island Credit Union: Comments on Interim Final Part 745

Dear Ms. Rupp:

We welcome and support all amendments implemented recently by the Interim Final Rule for Share Insurance (12 CFR Part 745). In particular, we commend NCUA's actions to permit pass-through insurance coverage for employee benefit plans. As presented, the Interim Rule allows for participants in an employee benefit plan who are credit union members to receive up to \$100,000 as to their determinable interest, and for member interests not capable of evaluation and non-member interests to be added together and insured up to \$100,000 in the aggregate. In response to NCUA's request for comment, we request that NCUA consider that such pass-through coverage be available to all plan participants, including non-member participants, based solely on the plan trustee or employer being a member. Additionally, we request that NCUA seriously consider extending pass-through insurance coverage to all agency accounts, in particular, Attorney Client Trust accounts.

BACKGROUND:

As is the case in many other states, the California State Bar requires attorneys to deposit funds held for the benefit of clients in a trust account separate from the attorney's own funds. Client funds that are nominal in amount or are on deposit for a short period of time are to be placed into a single unsegregated interest-bearing account often referred to as an IOLTA (Interest on Lawyer Trust Accounts) account. Each law firm is advised to have just one pooled account as multiple accounts generate extra service charges and reduce funds available for free legal services. The California State Bar posts on its web site a list of financial institutions that offer favorable interest rates for IOLTA accounts. Sadly, as you are aware, there are no credit unions on the list. This is because of limitations imposed by NCUA Legal Opinion Letter 96-0841 governing IOLTA accounts. A credit union currently cannot open such an account because it has no way of demonstrating that a member attorney's client is an actual member of the credit union. Moreover, for ethical reasons, the member attorney would not disclose who their clients are. As a practical matter, however, it is likely the clients would be within our field of membership.

Interest paid on IOLTA accounts is sent directly to the California State Bar by the financial institution. The Bar, in turn, uses these monies to benefit all Californians by providing funds for Victims of Crime as well as for legal aid to various indigent groups. Being able to offer our attorney members the IOLTA accounts would permit credit unions to also participate in these important public benefit programs, which obviously would benefit our members as well.

Sections of the FDIC and NCUA regulations that define insurance coverage as it relates to Attorney Client Trust accounts appear below. In essence, both regulations would insure funds owned by a principal (client of an attorney) and deposited in an agent's name (the attorney) up to the \$100,000 limit. The client continues to be the owner of their funds while the attorney or law firm serves only as a custodial agent for such funds.

FDIC 330.7(a)

*Agency or nominee accounts.* Funds owned by a principal or principals and deposited into one or more deposit accounts in the name of an agent, custodian or nominee, shall be insured to the same extent as if deposited in the name of the principal(s).

NCUA 745.3(a)(2)

*Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to \$100,000 in the aggregate.

Although it appears the two regulatory agencies would insure the accounts essentially the same, NCUA membership eligibility rules greatly restrict the ability to even open an Attorney Client Trust account. Guidance into membership rules as they apply to opening IOLTA accounts is provided, in part, by the following excerpt from NCUA's Legal Opinion Letter 96-0841. Needless to say, banks do not deal with same limitations or qualifications outlined in the Opinion Letter.

"With an agent account, the membership status of the client (owner of the funds) and not that of the agent (attorney, law firm or IOLTA Board) is determinative as to whether an IOLTA account can be properly maintained. Consequently, in order for an attorney or law firm to maintain an IOLTA account at an FCU, either all of the clients whose funds would be deposited must be members of that FCU or the FCU must be designated as a low income which would allow it to accept nonmember funds."

Expanding pass-through insurance coverage to IOLTA accounts would significantly enhance member business development opportunities for all credit unions, particularly those that focus on full relationship banking as does North Island Credit Union. A quick overview of a list of our Select Employee Groups revealed over 60 firms that could easily be identified as law offices. There are no doubt many more potential accounts recorded in the names of individual attorneys. In addition, the San Diego County Bar Association is one of our Select Employee Groups and many of its members have their personal accounts with us. Our inability to provide pass-through insurance coverage greatly limits the opportunity to not only develop new member business from these professional contacts, but to develop complete banking relationships with our existing members who practice law.

REQUEST:

If, as we recommend, pass-through insurance coverage is further extended to all participants in an employee benefit plan based solely on the plan trustee or employer being a member, then we ask that NCUA revisit its position regarding membership eligibility for all agency accounts. Granting pass-through coverage to all clients with funds in an IOLTA account, in particular, is both fair and logical for reasons similar to those suggested by the NCUA for possibly granting coverage to all participants in an employee benefit plan regardless of membership status. First, it is likely that attorneys will establish IOLTA accounts at a credit union if there is already some membership connection, for example, a majority of the client group is within the field of membership of the credit union. Second, clients will be unable to control or readily determine where their funds are maintained and, therefore, as a matter of fairness, all clients should be assured of full pass-through insurance coverage.

Once again we would like to express appreciation for the recent amendments implemented by the Share Insurance Interim Final Rule and respectfully request that NCUA re-evaluate its position on membership requirements for all agency accounts.

Sincerely,



Jeffrey A. Stone  
Executive Vice President  
Member Business Services

cc: Rodney Hood, NCUA  
Chris Collver, CCUL  
Doug Benzine, CUNA  
Beth Dooley, CAL DFI  
Dennis Dollar, Dollar & Associates