



Credit Union National Association

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December 15, 2008

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

RE: Share Insurance for Revocable Trust Accounts – Part 745

Dear Ms. Rupp:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the National Credit Union Administration (NCUA) Board's interim final rule regarding revocable trust accounts. By way of background, CUNA is the largest credit union trade organization in this country, representing approximately 90 percent of our nation's 8,200 state and federal credit unions, which serve approximately 92 million members.

Summary of CUNA's Views

- CUNA generally supports this interim final rule.
- We fully support the proposed elimination of the "qualified beneficiaries" concept. This change will not only simplify the process for determining coverage but would also increase eligible beneficiaries.
- However, we do have some suggestions to further clarify the rules governing share insurance coverage.
- We encourage the NCUA to clarify its description of coverage for revocable trust accounts with more than \$1.25 million and more than five beneficiaries. The example provided for coverage of such accounts is also confusing and needs further explanation; we also ask that NCUA provide additional examples.



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Discussion of CUNA's Views

The previous rule insured “qualifying beneficiaries,” who were designated by the account owner, up to \$100,000 each (currently \$250,000). “Qualifying beneficiaries” were defined as the owner’s: spouse, child, grandchild, parent or sibling. The final rule eliminates this requirement and bases coverage on the existence of *any* beneficiary named in the revocable trust, as long as they are a natural person, charity, or non-profit organization. We believe this to be a positive change that will not only simplify the process of creating a revocable trust, but will also increase eligible beneficiaries and thus encourage greater use of such trusts.

Previously, any unequal beneficial interests in a revocable trust had to be accounted for when determining insurance coverage. For revocable trust accounts with \$1,250,000 or less, the final rule does away with the previous requirement and insures each beneficiary up to \$250,000. The maximum coverage of a revocable trust account with less than \$1,250,000 is determined by multiplying the number of beneficiaries by \$250,000. We support this provision as it simplifies the formula for determining coverage and will likely increase the amount of such coverage.

Under the final rule revocable trust accounts with more than \$1,250,000 and more than five beneficiaries are insured for the greater of: \$1,250,000 or the aggregate amount of the beneficiaries’ interest, limited to \$250,000 per beneficiary. The guidelines for determining coverage of such accounts that include differing beneficiary interest would require an analysis of each of the beneficiary’s particular interest. While we do not object to the method suggested, we do encourage the NCUA to rewrite this section (*D.*) to make it easier to understand. *Section D.* also provides an example to illustrate the amount of coverage for these larger trusts. We similarly ask the NCUA to develop a clearer and simpler example.

Under the previous rule NCUA used a different set of rules for determining insurance coverage for revocable and irrevocable trusts. The final rule does away with multiple rules and establishes that the method for determining the coverage will remain the same after the trust becomes irrevocable. We believe the use of a single set of rules will not only simplify the process but will also increase consistency.

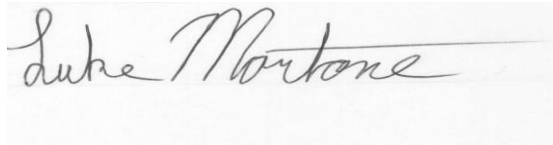
We also encourage the NCUA to revisit the issue of share insurance coverage for IOLTA accounts. Recently, the NCUA stated in legal opinion letter 08-0840 that only those funds contributed to an IOLTA account by members of a credit union are insured, and that the membership status of the depositor and not the attorney determines coverage.

Since interest earned on IOLTAs typically is paid to a state or private nonprofit organization, there is a strong public policy argument to allow coverage based on the membership of the attorney establishing the account. The member requirement puts credit unions at a disadvantage in attracting IOLTA accounts and we hope NCUA will reconsider its position on this issue.

Lastly, we support parity between the policies of the FDIC and those of the NCUSIF regarding coverage of non-interest bearing accounts. Federally insured credit unions will be competitively disadvantaged without full share insurance coverage for non-interest bearing transaction accounts. We encourage the NCUA to continue its efforts and discussions with Treasury regarding this issue.

Thank you for the opportunity to express our views on the Board's interim final rule regarding share insurance for revocable trust accounts. If you have questions about our letter, please do not hesitate to give Senior Vice President and Deputy General Counsel Mary Dunn or me a call at 202-508-6743.

Sincerely,

A handwritten signature in cursive script that reads "Luke Martone". The signature is written in black ink on a light-colored background.

Luke Martone
Regulatory Research Counsel