

December 21, 2004

Kevin M. Doane, General Counsel
Corning Federal Credit Union
Post Office Box 1450
Corning, New York 14830-1050

Re: Credit Union Service Organization (CUSO) Activities.

Dear Mr. Doane:

You have asked if your federal credit union (FCU) may invest in a CUSO that will engage in a variety of activities to support small businesses. Yes, we believe the activities discussed below are permissible under NCUA's CUSO rule.

You have stated that the CUSO intends on serving new and existing business by providing a variety of services that are expressly authorized in NCUA's CUSO rule. 12 C.F.R. §712.5. These activities include accounting services, income tax preparation, estate planning, and retirement counseling. The CUSO proposes to engage in additional activities that are not specifically listed as examples of permissible activities in the rule. It intends to assist businesses in planning their financial needs and expenditures by providing counseling regarding business plans, budgets, debt load and cash flow, and loan and grant offers. The CUSO would also provide expert testimony in tax deficiency hearings, counseling on the financial and tax implications of leasing and buying capital assets, counseling on property and casualty insurance needs, and assessments regarding business assets and the value of a business.

NCUA's CUSO rule permits FCUs to invest in a CUSO "only if the CUSO primarily serves credit unions, its membership, or the membership of credit unions contracting with the CUSO." 12 C.F.R. §712.3(b). Furthermore, an FCU may invest in only those CUSOs "engaged in the preapproved activities and services related to the routine daily operations of credit unions." 12 C.F.R. §712.5. The CUSO rule provides a list of preapproved activity categories. Id. The broad categories contain examples of permissible activities that are provided for illustrative purposes. Id.

We believe CUSOs may serve FCU business members in the same manner they are permitted to serve natural person FCU members. In 1982, NCUA specifically identified "family financial services" as preapproved activities for CUSOs. These services included but were not limited to financial planning and counseling, retirement counseling, estate planning, income tax preparation, and personnel benefit plan administration. 47 Fed. Reg. 30,462 (July 14, 1982). NCUA has long considered these services as appropriate for CUSOs because CUSOs

Mr. Kevin M. Doane, Esq.
December 21, 2004
Page 2

provide various operational and financial services to credit union and credit union members. As FCUs have strived to serve all the members in their fields of membership, including small businesses, FCU services to member businesses have expanded. As such, the NCUA Board, in recognizing the loan demands of small business members, added business loan origination to the list of permissible CUSO activities last year. 68 Fed. Reg. 56,537 (Oct. 1, 2003).

When read as a whole, the list of preapproved activities in the CUSO rule makes clear that FCUs are permitted to invest in CUSOs that provide natural persons with a host of services to manage their financial affairs. We believe two significant changes to the CUSO rule also establish that CUSOs may provide similar financial services to businesses: 1) the replacement of "family financial services" years ago with a "financial counseling services" category in §712.5(f) and 2) the addition of business loan origination to the list of preapproved CUSO activities.

While the activities you have proposed are not specific examples under any of the preapproved activity categories in the CUSO rule, the activities need only fall within a broad category and relate to the routine, daily operations of credit unions. 12 C.F.R. §712.5. We believe that, by providing advice regarding business plans, budgets, debt load and cash flow, and loan and grant offers, a CUSO is engaging in either professional and management services or financial counseling services under the CUSO rule. 12 C.F.R. §712.5(b), (f). Similarly, we believe a CUSO may provide expert testimony in tax deficiency hearings for clients it assisted under its authority to provide tax preparation services. 12 C.F.R. §712.5(f)(4). Finally, we believe that counseling regarding the leasing and buying of capital assets, property and casualty insurance needs, and assessments regarding business assets, all fall within the category of fixed asset services but may overlap with other categories, such as insurance brokerage or management services. 12 C.F.R. §712.5(g).

Sincerely,

/S/
Sheila A. Albin
Associate General Counsel

OGC/CJL:bhs
04-0840