

July 1, 2005

Brett A. Thompson, President/CEO
Wisconsin Credit Union League
N25 W23131 Paul Road
Pewaukee, Wisconsin 53072-5779

Re: Insurance Coverage on 529 College Savings Plan.

Dear Mr. Thompson:

The Chairman's Chief of Staff, Holly Herman, asked the Office of General Counsel to respond to your recent inquiry regarding pass-through insurance coverage for accounts established at federally insured credit unions for a state's college savings plan created under Section 529 of the Internal Revenue Code. Specifically, you have asked the National Credit Union Administration (NCUA) to adopt a rule, similar to the Federal Deposit Insurance Corporation (FDIC) interim final rule, to allow pass-through share insurance for these accounts. NCUA will consider the need to adopt a new rule, but our view is that NCUA's current insurance rule provides this coverage as long as the account owner is a member of the federally insured credit union where the account is maintained and the account is properly titled.

In April 2005, the State of Wisconsin contacted NCUA about insurance coverage of share certificates purchased at credit unions under its 529 college savings plan (the Plan). The Plan, as described in a letter from Wisconsin's Office of Credit Unions, is analogous to an escrow account where the state acts as an escrow agent. We concluded the state holds the funds as an agent or custodian for the owner and that the rule governing custodial accounts would apply, providing insurance coverage without a change to our insurance regulation. 12 C.F.R. §745.3.

Careful titling of the share certificates is necessary to ensure each investor receives individual account coverage. If a state titles the share certificates properly, for example "State of Wisconsin as Custodian for Other Account Owners," the share certificates would be insured as an account held by an agent or nominee. 12 C.F.R. §745.3(a)(2). Agent or nominee accounts are insured as individual accounts and, along with any other individual accounts an owner might have at the same credit union, insured up to \$100,000 in the aggregate; the account owner's name must be ascertainable from credit union or state records.

Brett A. Thompson
Page Two

Id.; 12 C.F.R. §745.2(c)(2). Alternatively, a State may title the share certificates in the account owner's name, and the funds would simply be insured as an individual account. 12 C.F.R. §745.3(a)(1). Either way, our insurance regulation requires the account owner to be a member or otherwise eligible to maintain an insured account in a credit union. 12 C.F.R. §745.0. This membership requirement is true for insurance coverage of any account under our insurance regulation.

NCUA is aware that FDIC has issued an interim final rule to address providing coverage for the college savings plans. 70 Fed. Reg. 33689 (June 9, 2005). Our interpretation of NCUA rules reaches the same result in terms of coverage, maintaining parity with the account insurance provided by the FDIC in its interim rule, although on a slightly different basis. NCUA will consider if it is appropriate or necessary to amend its insurance rule once the FDIC issues a final rule.

Sincerely,

Sheila A. Albin
Associate General Counsel

cc: Suzanne T. Cowan, Director
Office of Credit Unions
State of Wisconsin

OGC/MIG:bhs
05-0630