

NCUA LETTER TO CREDIT UNIONS

**NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314**

DATE: July 2009 **LETTER NO:** 09-CU-16

TO: Federally Insured Credit Unions

SUBJ: Guidance on Acceptance of California Warrants

ENCL: Interagency Guidance on California Registered Warrants

Dear Board of Directors:

Enclosed with this Letter is the interagency guidance regarding California registered warrants. Credit union management should consider this guidance when assessing risks associated with accepting these warrants. The State of California has a website to provide specific warrant information: www.sco.ca.gov/5935.html.

This Letter also provides guidance to credit unions choosing to accept warrants issued by the State of California from their members on how they should record and document the transaction.

Federal credit unions should not treat their acceptance of a warrant from a member as an investment by the federal credit union but may treat their acceptance of a warrant as a collection item, a deposit, or a loan depending on whether the credit union has extended credit to a member and the disclosures or other documentation it has provided to members. If a credit union extends credit to a member in accepting the warrant, it should inform members of the charge back and collection rights the credit union may have. Subject to safety and soundness considerations, federal credit unions are not generally restricted in the type of collateral they may hold as security for payment of an extension of credit. State-chartered credit unions, with authority to make an investment in a warrant, are advised that, if they choose to record the warrants as a credit union investment, they will have to reserve for a nonconforming investment under NCUA's investment rule.

Background

Federal credit unions may invest in the obligations of any state or political subdivision thereof, 12 U.S.C. §1757(7)(K), but NCUA's investment regulation provides that these

investments are permissible only if a nationally-recognized statistical rating organization has rated the security in one of the four highest rating categories. 12 C.F.R. §703.14(e). Our understanding is California warrants cannot meet that requirement. For that reason, a federal credit union should not record its acceptance of a warrant from a member as an investment by the federal credit union in the warrant. Assuming a state-chartered credit union may invest in a California warrant under applicable state law, a state chartered credit union must reserve for the investment under NCUA's regulation regarding nonconforming investments. 12 C.F.R. §741.3(a)(2).

Summary

We understand credit unions are making a business decision to accept these warrants to assist their members affected by the financial situation confronting the State of California. Credit unions should be mindful as they try to work with their members that they need to do so prudently, ensuring they comply with NCUA regulations and that members are appropriately informed as to their obligations.

We are aware some credit unions have already accepted warrants and we recommend those credit unions consult with their own legal counsel and accounting professionals on the appropriate treatment for those transactions. If you have any questions related to this Letter, you should contact your regional office, district examiner or appropriate state supervisory authority.

Sincerely,

/s/

Michael E. Fryzel
Chairman