

October 11, 2005

Gretchen L. Jones, Esq.
Skelton, Taintor & Abbott
95 Main Street
P.O. Box 3200
Auburn, ME 04212-3200

Re: Permissibility of CUSO's Purchase of Nonperforming Loans for Debt Collection.

Dear Ms. Jones:

You have asked if a credit union service organization (CUSO) may purchase nonperforming loans it is collecting as part of providing debt collection services, which is a preapproved activity under our regulations. 12 C.F.R. §712.5(j). We believe that, in the limited circumstances you described, the CUSO's purchase of nonperforming loans from its credit union owners is permissible.

According to your description, the CUSO will provide debt collection services to its credit union owners, using a salaried attorney from one of the owner credit unions. The CUSO will reimburse the credit union for the attorney's work and, in turn, will seek reimbursement from the credit unions using the debt collection service. Maine law, however, prevents the member credit unions from reimbursing the CUSO for the attorney's work on debt collection unless the CUSO owns the nonperforming loans.

You cite two Maine statutes preventing the CUSO from receiving payment from credit unions for any debt collection services the attorney provides. First, a provision in the Maine Bar Rules governing the practice of law prohibits fee-sharing with non-lawyers. Me. Bar Rule 3.12(a). Also, Maine's Fair Debt Collection Practices Act, to which the CUSO will be subject, prohibits a debt collector from sharing compensation for services performed by a lawyer in collecting a debt owed to a third party. Me. Rev. Stat. Ann. tit. 32, §11013(J). You report that officials from Maine's Office of Consumer Credit Regulation have told you that, if the CUSO owned the nonperforming loans to be collected, the CUSO could receive reimbursement for the debt collection services the attorney provides.

We agree with your analysis that, under these circumstances, the CUSO's purchase of nonperforming loans is part of a preapproved activity. "Loan support services," which includes "debt collection services," are preapproved activities for CUSOs. 12 C.F.R. §712.5(j). In order to receive payment for its debt collection activities and comply with state law, the CUSO must purchase the nonperforming

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loans from its member credit unions. Accordingly, we conclude that the purchase of nonperforming loans in this case is part of its debt collection activity.

We also agree with your analysis that the CUSO would not be engaged in consumer lending. As you note, NCUA has not permitted CUSOs to engage in consumer lending, other than mortgage loans and student loans. 63 Fed. Reg. 10752 (March 5, 1998). CUSOs may, however, engage in “many back office aspects of lending,” as long as the credit union makes the decision whether to grant the loan. Id. You report that the CUSO will not be involved in any debt restructuring that would, in effect, involve it in impermissible consumer loan origination.

Our analysis is limited to federal law and regulations, and we do not offer an opinion regarding any state law issues, including whether state law requires additional disclosures to the consumer. If you have further questions, please feel free to contact Staff Attorney Elizabeth Wirick or me.

Sincerely,

/s/

Sheila A. Albin
Associate General Counsel

EAW:bhs
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