

June 19, 2007

Mary Dunn, Deputy General Counsel
Credit Union National Association
601 Pennsylvania Avenue, NW
Washington, D.C. 20004

Re: Political Activities of Credit Unions.

Dear Ms. Dunn:

You have requested further elaboration and guidance on a recent Office of General Counsel (OGC) opinion letter addressing permissible political activities of credit unions. OGC Op. 06-0928 (Nov. 28, 2006). That opinion letter responded to a question regarding the extent to which federal credit unions (FCUs) may engage in political activities, such as hosting events for congressional candidates. We are glad to provide the following additional guidance.

The Federal Election Campaign Act of 1971 (FECA) prohibits FCUs from making contributions or expenditures in connection with the election of any individual to public office, whether at the federal, state, or local level. 2 U.S.C. §441b(a); 11 C.F.R. §114.2(a). Federal Election Commission (FEC) regulations for state-chartered credit unions are less restrictive; they only prohibit making contributions or expenditures in support of or in opposition to candidates for federal office and in state elections under certain circumstances. 11 C.F.R. §114.2(b)(2).

There are several exceptions to the FEC's prohibitions and definitions of the terms "contribution" and "expenditure," many of which may apply to communications or solicitations restricted to an FCU's members.¹ Credit unions may engage in the excepted activities to the extent allowed by FEC regulations. For example, there are fewer restrictions on political activity involving internal political communications by a credit union to its members and to its executive and administrative personnel. 2 U.S.C. §441b(b)(2)(A); 11 C.F.R. §§114.1(a)(2)(i), 114.3. To provide further guidance, we note credit union communications under those circumstances may expressly advocate the election or defeat of a federal candidate and may solicit funds for particular candidates.²

¹ FEC has provided guidance on the definitions of "contribution" and "expenditure." FEC Op. 1991-24 (August 30, 1991).

² As a point of clarification, the FEC's "one-third" rule described in OGC Op. 06-0928 applies to fundraising events for a credit union's PAC, not to a members-only candidate fundraiser. See 11 C.F.R. §114.5(b)(2).

11 C.F.R. §114.3(a), (c). Further, those communications may include appearances by federal candidates before a credit union's members and its executive and administrative personnel. 11 C.F.R. §114.3(c)(2). Appearances by federal candidates before a credit union's members may include requests made by credit union personnel and the candidate for contributions. The candidate or his or her representative may collect contributions before, during, or after such events. 11 C.F.R. §114.3(c)(2).

Additionally, credit unions may permit their employees and members to use, without charge, corporate facilities for voluntary political activities on behalf of a federal candidate or committee as long as the use is "occasional, isolated, or incidental." 11 C.F.R. §114.9(a). FEC regulations specifically provide a safe harbor of one hour per week or four hours per month during which this exception may be exercised. 11 C.F.R. §114.9(a)(iii).

Our previous opinion letter explained the establishment of a separate segregated fund (SSF), otherwise known as a political action committee (PAC), to represent credit unions' political interests. We indicated individual credit unions may form their own SSFs, but may also affiliate with other SSFs.³ To elaborate, a credit union that is a member of a trade association may solicit and collect voluntary contributions for the trade association's PAC, as long as certain exacting rules are followed.⁴ 11 C.F.R. §§114.2(f)(5), 114.8. The FEC has permitted member credit unions of the Credit Union National Association (CUNA) to act as collecting agents for purposes of soliciting and transmitting voluntary contributions to the Credit Union Legislative Action Council (CULAC), CUNA's PAC. FEC Op. 1998-19 (November 2, 1998).

We hope this further clarification of these issues is helpful. Credit unions should note that NCUA does not have jurisdiction over FECA issues and should consult the FEC Office of General Counsel on specific questions or for additional information concerning its guidelines.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

OGC/AMT:bhs

³ An FEC opinion has permitted an FCU to use its own funds to establish, administer, and solicit contributions to a connected federal PAC. FEC Op. 1990-18 (October 5, 1990).

⁴ An FEC opinion has permitted an FCU to make a donation to a charity in order to raise contributions from its members for CULAC. FEC Op. 2003-39 (February 6, 2004).

Ms. Mary Dunn
Page 2
June 19, 2007

OGC 07-0222