

November 10, 2009

Leesa Husak, President/CEO
Building Trades Federal Credit Union
12080 73rd Avenue North
Maple Grove, MN 55369

Re: Letters of Credit to Secure Share Deposits.

Dear Ms. Husak:

You have asked if a federal credit union (FCU) can obtain an irrevocable standby letter of credit (LOC) and pledge its assets as collateral to secure member shares in excess of the share insurance limit. An FCU can only pledge its assets to guarantee deposits for the benefit of a government depositor or public unit.

Building Trades FCU (Building Trades) has labor unions in its field of membership and is holding shares in excess of the share insurance limit for some of them. The FCU purchased excess share insurance and named the member labor unions as beneficiaries on LOCs from a federal home loan bank (FHLB) and a corporate credit union (corporate) to secure the uninsured shares. Building Trades pledged its share deposits and other undescribed FCU assets to secure the LOC at the corporate and a portion of its mortgage portfolio as collateral for the LOC at the FHLB. Building Trades believes that, if it fails and cannot repay the member labor unions the uninsured shares, the FHLB and the corporate would repay the member shares under the LOCs. The FCU would like to obtain additional LOCs from other financial institutions to secure shares of the member labor unions.

The FCU Act provides limited, express authority for an FCU to pledge its assets to secure the payment of public funds:

Any Federal credit union, upon the deposit with it of any funds by the Federal Government, an Indian tribe, or any State or local government or political subdivision thereof as otherwise authorized by this Act, is authorized to pledge any of its assets securing the payment of the funds so deposited.

12 U.S.C. 1767(b). Except in the case of government depositors, meaning public units or political subdivisions, an FCU cannot pledge its assets to guarantee member deposits. Labor unions do not qualify under this provision in the FCU Act and do not meet the definition of public units or political subdivisions under our regulations. See 12 C.F.R. §745.1(c) and (d); see *also* OGC Legal Op. 02-

Leesa Husak, President/CEO

November 10, 2009

Page 2

0269 (May 7, 2002) (letter discusses that authority to guarantee shares must be expressly stated in statute and cannot be implied or deemed with incidental powers provision).

Additionally, you asked for guidance regarding the appropriate disposition of existing LOCs if it is impermissible for Building Trades to guarantee uninsured member shares. We suggest Building Trades consider, as an alternative, restructuring the member account(s) to maximize share insurance coverage. For example, shares in a retirement or other employee benefit plan account are insured separately from the other share accounts of a corporation or unincorporated association. 12 C.F.R. §§ 745.6, 745.9-2. Additionally, the shares of an employee benefit plan are insured on a "pass-through" basis, meaning the interest of each plan participant is insured up to the maximum share insurance limit. 12 C.F.R. §745.9-2(a).

If you have any further questions, please feel free to contact Staff Attorney Tonya Green or me at (703) 518-6540.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

cc: C. Keith Morton, Region IV Director

OGC/MIG/SAA:bhs
09-1052