

July 7, 1993

Patti Tuma, Vice President
Employee Benefits Division
Southwest Business Corporation
10375 Richmond Avenue
Suite 1175
Houston, Texas 77042

Re: Self-Insurance by Federal Credit Unions (Your June 15, 1993, Letter)

Dear Ms. Tuma:

You asked whether a federal credit union ("FCU") may self-insure its employee health benefit plan. Under the plan you propose, an insurance carrier would cover "a specific and an aggregate stop loss," so that the FCU would not bear the entire cost in the event of a large claim or heavy utilization.

It has long been our position that FCUs may not engage in self-insurance. FCUs have no express authority to act as insurers under the Federal Credit Union Act, nor is self-insurance incidental to any express FCU power. Moreover, we have frequently expressed reservations about the safety and soundness of an FCU's functioning in the capacity of a self-insurer, due to the risk of financial liability which the FCU may be unable to meet.

Despite the fact that an insurance carrier would bear some cost over a certain limit, an FCU participating in the plan you describe would still be liable for the cost of claims up to that limit. Therefore, the plan constitutes self-insurance, and is not legally permissible for FCUs.

Sincerely,

James J. Engel
Deputy General Counsel

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