

January 18, 1996

John L. Bley, Director
State of Washington
Department of Financial Institutions
P. O. Box 41200
Olympia, Washington 98504-1200

Re: Management Official Interlocks (Your December 8, 1995)

Dear Mr. Bley:

Chairman D'Amours has asked this office to respond to your request for an opinion on the applicability of the Depository Institution Management Interlocks Act (the "Interlocks Act"), 12 U.S.C. §3201 et seq. You have asked us whether an individual who currently serves as an officer and manager of a privately insured credit union ("CU") and on the board of directors of a federally insured commercial bank ("Bank") located in the same city as the CU would be subject to the Interlocks Act if the State of Washington required all privately insured credit unions, like the CU, to become members the National Credit Union Share Insurance Fund ("NCUSIF").

Analysis

The Interlocks Act prohibits a person from simultaneously serving as a management official of two unaffiliated depository institutions that have offices in the same city or town, unless the dual service qualifies for an exception. 12 U.S.C. §§3202(2) and 3204. The individual in question is a "management official" of both institutions since he serves as a director and officer of the CU, and as a director of the Bank. 12 U.S.C. §3201(4). The Interlocks Act's definition of depository institution includes a commercial bank and a credit union, however, the National Credit Union Administration ("NCUA") only administers and enforces the Interlocks Act with respect to those credit unions whose share accounts are insured by the NCUSIF. 12 U.S.C. §§3201(1) and 3206(5).

Therefore, if the CU became a member of the NCUSIF, the CU would be subject to the NCUA's jurisdiction and the individual's dual service would violate the Interlocks Act, unless an exception is available. The exceptions to the prohibitions against dual service are set forth at section 3204 of the Interlocks Act and section 711.4 of NCUA Regulations. Based on the facts provided in your letter, none of these exceptions appear to exempt this individual's interlocking service for the CU and the Bank.

Sincerely,

Richard S. Schulman
Associate General Counsel

GC/JSM:bhs
SSIC 3500
95-1233