

January 21, 2010

Mariela Gomez, Division Director
Cash Management Division
Miami-Dade Finance Department
111 NW 1 Street, Suite 2550
Miami, Florida 33128-1995

Re: Permissibility of County Forming a Federal Credit Union.

Dear Ms. Gomez:

You have asked if a county can form its own federal credit union (FCU) and if it can use public funds to do so. An FCU is a nonprofit, cooperative financial institution owned by its members and, therefore, a county government cannot "own" an FCU, but a county government, depending on an FCU's field of membership, could join an FCU and could be a sponsor, assisting in an FCU's organization and operation. NCUA does not specifically regulate the funding sources of credit union sponsors.

Under the FCU Act, any seven or more natural persons can apply to form an FCU. 12 U.S.C. §1753. An application must propose a field of membership (FOM), which is a description of who will be eligible to join the credit union as members; for example, an FOM may be employees of a particular employer, members of an association, or persons living in a specified community, such as a single county. 12 U.S.C. §1759(b). Many FCUs have FOMs that are made up of or include federal, state, and local government employees. A sponsoring entity, for example, an employer, may provide assistance in organizing a new credit union in many ways, for example, providing funds, staff, or office space. Once NCUA charters an FCU, it becomes a "body corporate, . . . subject to the limitations, . . . vested with all of the powers and charged with all of the liabilities conferred and imposed by" the FCU Act. 12 U.S.C. §1754.

Part of the impetus for your inquiry is the county's concern about the fees and commissions charged against its interest income on funds deposited at financial institutions. We note FCUs are headed by a volunteer board of directors, elected by the members, and are democratically controlled, with each member having one vote in the election of directors, regardless of the amount a member has in FCU accounts. FCUs generally provide members with attractive savings rates and lower fees than many for-profit financial institutions.

An FCU is a legal entity separate from any sponsor or any organization whose members or employees constitute the FCU's membership. See, e.g., OGC Ops. 94-0118 (Jan. 24, 1994) and 91-0428 (May 7, 1991) (legal opinions available on NCUA's

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website). A sponsor is not legally responsible for the actions of the FCU or its officers, and an FCU is not responsible for any actions of the sponsor. Id.

With the exception of concerns about financial viability and safety and soundness concerns potentially involved with any new charter, the FCU Act and NCUA's regulations, policies, and procedures do not address or control the funding sources FCU sponsors may use. We defer to your offer as to whether there are any state or local laws that would limit a county's use of its funds to assist in the formation of an FCU.

For additional resources on how to start an FCU and other general information, we recommend reviewing the materials available on the NCUA website at:
<http://www.ncua.gov/Resources/CreditUnionDevelopment/Start.aspx>.

If you have any further questions, please contact Staff Attorney Regina Metz or me.

Sincerely,

/s/

Michael M. McKenna
Deputy General Counsel

GC/RMM/SAA
09-1205