

**Opinion 96-11 (Redacted version)**

September 6, 1996

Sharon A. Ruth  
Assistant General Counsel  
Federal Reserve Bank of San Francisco  
101 Market St  
San Francisco, CA 94105

Subject: Your letter of August 27, 1996  
Opinion no. 96-11

Dear Ms. Ruth:

This letter is in response to your above-noted letter, in which you requested my opinion whether Washington state-chartered credit unions (“Washington credit unions”) may serve as Treasury tax and loan depositories and depositories of federal taxes under 31 C.F.R. Section 203.3(b) and applicable Treasury Department regulations.

More specifically, you have requested my opinion whether Washington credit unions:

1. Possess under their charters and regulations issued by the state-chartering authority either general or specific authority permitting the maintenance of an open-ended interest bearing account, the balance of which is payable on demand without previous notice of intended withdrawal, and
2. Possess under their charters and regulations issued by the state-chartering authority either general or specific authority to pledge collateral to secure funds in an open-ended interest bearing note account (if applicable) and a Treasury tax and loan account; and
3. Are otherwise eligible under 31 C.F.R. Section 203.3(b)(1).

You have indicated in your letter that federally-chartered credit unions (“federal credit unions”) do satisfy these three requirements, based on applicable rules set forth at 12 C.F.R. Section 701.37.

## **NCUA Insurance and WCUSGA Guarantee**

As we discussed, Washington credit unions currently have an option regarding their share and deposit insurance. Section 31.12A.040(4) of the Revised Code of Washington (“RCW”). Their shares and deposits may be

1. Insured by the administrator of the National Credit Union Administration (“NCUA”) through the National Credit Union Share Insurance Fund (“NCUSIF”), or
2. Guaranteed by the Washington Credit Union Share Guaranty Association (“WCUSGA”) pursuant to Chapter 31.12A RCW (copy enclosed).

At present, of the 103 Washington credit unions, 33 are insured by the NCUSIF (“NCUSIF credit unions”) and 70 are guaranteed by WCUSGA (“WCUSGA credit unions”).

By legislation adopted in 1996, the Washington State legislature concluded that the private WCUSGA guarantee system should be phased out. Chapter 5, Washington Laws of 1996 (copy enclosed). All Washington credit unions must have NCUSIF insurance by December 31, 1998. Section 5, Chapter 5, Washington Laws of 1996. Enclosed for your information is a copy of the legislative staff’s Bill Analysis for Substitute Senate Bill 6579, the bill that was enacted as Chapter 5.

## **Analysis and Conclusion**

My conclusions vary, depending on the type of credit union.

### **NCUSIF credit unions**

My conclusion is that NCUSIF credit unions satisfy the three requirements above.

**First two requirements.** NCUSIF credit unions satisfy the first two requirements above by virtue of RCW 31.12.136(1), commonly known as the “parity provision.” This provision grants Washington credit unions the powers and authorities that were conferred on federal credit unions as of December 31, 1993, notwithstanding any other provision of law. My understanding is that federal credit unions satisfy the first two requirements above, by virtue of 12 C.F.R. Section 701.37. My research indicates that this section has not been amended since 1989. Consequently, all Washington credit unions, including both NCUSIF and WCUSGA credit unions, possess the requisite authority to satisfy the first two requirements above.

**Third requirement.** NCUSIF credit unions satisfy the third requirement by virtue of their NCUSIF insurance. 31 C.F.R. Section 203.3(b)(1)(iii).

### **WCUSGA credit unions**

My conclusion is that WCUSGA credit unions satisfy the first two requirements, but it is unclear whether they are able to satisfy the third requirement above.

**First two requirements.** For the reasons previously explained, WCUSGA credit unions satisfy the first two requirements above.

**Third requirement.** However, it is unclear whether WCUSGA credit unions satisfy the third requirement above: eligibility under 31 C.F.R. Section 203.3(b)(1). Paragraph (1) requires, in the case of WCUSGA credit unions, that the deposits or accounts of these credit unions be “insured by a State or agency thereof, or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such [credit unions].” 31 C.F.R. Section 203.3(b)(1)(iv). Under Chapter 31.12A RCW, WCUSGA is a non-profit, unincorporated legal entity, created by statute, for the purpose of guaranteeing shares and deposits held by WCUSGA-member credit unions. See RCW 31.12A.005, 31.12A.020. It is not clear how the wording of Section 203.3(b)(1) should be applied in this circumstance. Consequently, I am not able to determine with confidence whether WCUSGA credit unions satisfy the third requirement above.

I hope that this opinion has been responsive to your request. Please feel free to contact me at (360) 902-8778 if you would like to discuss this matter further.

Sincerely,

J. Parker Cann  
Assistant Director