

July 22, 2005

**To:** All Presidents and Chief Executive Officers,  
Saskatchewan Credit Unions

**Re: Promotion of Insurance by Credit Unions**

My office has received a number of inquiries concerning the promotion of insurance by credit unions. The purpose of this letter is to communicate to credit unions some of the issues raised by those inquiries, as well as some additional related issues.

The first matter is with respect to “tied-selling” of credit union products and services. The relevant legislative provisions are subsections 44(2) and 44(3) of *The Credit Union Act, 1998* (the “Act”). For convenience, I will set out these provisions in full.

**Restrictions on services**

**44...**

(2) No credit union shall require, impose undue pressure on, or coerce a member of a credit union or a customer, as a condition of receiving any service, to purchase another service from the credit union.

(3) Subsection (2) is to be construed as not preventing a credit union from establishing pricing policies for a service or a group of services that is available to all customers of that service or group of services.

The legislature has established clear limits on the conditions that credit unions can impose on members and customers in providing services. Accordingly, credit unions must be vigilant in ensuring that practices contrary to the prohibition in subsection 44(2) of the Act are not occurring. While inquiries have focused on insurance services, the prohibition applies equally to all other credit union services. It is also imperative to keep in mind that “members” and “customers” would also include any credit union employees who are, in fact, members or customers of the credit union.

The inquiries we received also raised the question of the proper interpretation of several provisions in the credit union legislation directly concerning the promotion of insurance. I will take this opportunity to communicate my interpretation of those sections to you. The provisions involved are clause 2(a) and section 4 of *The Credit Union Insurance Business Regulations* (the “Insurance Regulations”). Again, for convenience, I will set out the relevant provisions in full.

....2

**Interpretation**

2 In these regulations:

(a) “authorized type of insurance” means:

- (i) credit or charge card-related insurance;
- (ii) creditors. disability insurance;
- (iii) creditors. life insurance;
- (iv) creditors. loss of employment insurance;
- (v) creditors. vehicle inventory insurance;
- (vi) export credit insurance;
- (vii) group life insurance;
- (viii) mortgage insurance; or
- (ix) travel insurance.

**Promotion**

4(1) No credit union shall, in Canada, promote an insurance company, agent or broker unless:

(a) the company, agent or broker deals only in authorized types of insurance;  
or

(b) the promotion takes place outside a branch of the credit union and is directed to:

- (i) all of the holders of credit or charge cards issued by the credit union who receive regularly mailed statements of account;
- (ii) all of the credit union.s members or customers who are natural persons and who receive regularly mailed statements of account; or
- (iii) the general public.

(2) No credit union shall, in Canada, promote an insurance policy of an insurance company, agent or broker, or a service in respect thereof, unless:

(a) the policy is of an authorized type of insurance or the service is in respect of such a policy;

(b) the policy is to be provided by a corporation without share capital, other than a mutual insurance company or a fraternal benefit society, that carries on business without pecuniary gain to its members and the policy provides insurance to a natural person in respect of the risks covered by travel insurance;

(c) the policy is a personal accident insurance policy and the promotion takes place outside a branch of the credit union;

(d) the service is in respect of a policy mentioned in clause (b) or of a policy mentioned in clause (c) that is promoted as described in that clause; or

(e) the promotion takes place outside a branch of the credit union and is directed to:

- (i) all of the holders of credit or charge cards issued by the credit union who receive regularly mailed statements of account;
- (ii) all of the credit union’s members or customers who are natural persons and who receive regularly mailed statements of account; or
- (iii) the general public.

(3) Notwithstanding subsections (1) and (2), a credit union may exclude from a promotion mentioned in clause (1)(b) or (2)(e) persons:

- (a) in respect of whom the promotion would contravene an Act of Saskatchewan, of Canada or of the legislature of a province;
- (b) who have notified the credit union in writing that they do not wish to receive promotional material from the credit union; or
- (c) who are holders of a credit or charge card that was issued by the credit union and in respect of which the account is not in good standing.

The key concept involved in the prohibition contained in section 4 of the Insurance Regulations is that of “promotion”. The comparable provision in British Columbia’s legislation was interpreted very broadly by the British Columbia Supreme Court in *Bank of Nova Scotia v. British Columbia (Superintendent of Financial Institutions)* (2001), 18 B.L.R. (3d) 45, and by the British Columbia Court of Appeal in *Bank of Nova Scotia v. British Columbia (Superintendent of Financial Institutions)*, [2003] B.C.J. No. 92. Although those courts used different words to describe its meaning and disagreed as to whether promotion includes solicitation or not, the meanings both courts ascribed to it would clearly extend to “anything that enhances support for some product or service so as to increase the volume of business”.

Accordingly, if a credit union does anything to enhance the support for an insurance company, agent or broker that deals in “non-authorized types of insurance”, or to enhance the support for an insurance policy, or service in respect thereof, that is not an “authorized type of insurance”, it must do so only as permitted by section 4 of the Insurance Regulations. Under the exceptions provided in clauses 4(2)(b)-(d), such promotion must be done outside a branch of the credit union and be directed to:

- (i) the general public;
- (ii) all of the holders of credit or charge cards issued by the credit union and who receive regularly mailed statements of account; or
- (iii) all members and customers of the credit union who are natural persons and who receive regularly mailed statements of account.

If such promotion were to occur within a branch, or be directed to some group of persons other than the three expressly designated above, such promotion would be in breach of section 4 of the Insurance Regulations. For example, if a credit union engaged in an employee loyalty program for its employees that “enhanced the support for” an insurance company, agent or broker who dealt in “non-authorized types of insurance”, or for an insurance policy or service in respect thereof that is not an “authorized type of insurance”, the engaging in that program by the credit union would be a contravention of the Insurance Regulations.

All Chief Executive Officer, Saskatchewan Credit Unions

Page 4

July 22, 2005

---

Referrals concerning insurance are another area in which care must be taken to avoid contravening the Insurance Regulations. Referrals are a form of promotion and, as such, referrals to insurance companies, brokers or agents that deal in “non-authorized types of insurance” must be done only in accordance with section 4. This means that the referrals must be made outside of a branch of the credit union and directed only to the three broad groups outlined above. You may wish to review all your programs to ensure they are in compliance with the Insurance Regulations in this respect.

I would also like to raise the matter of credit unions’ interaction with MemberCARE and Credential Financial Strategies Inc. (“CFS”). In particular, I would point out that any interaction between credit unions and these entities, or any similar entities, must occur in a manner that is in compliance with all applicable credit union legislation, including the Insurance Regulations. MemberCARE and CFS are insurance agents who deal in “non-authorized types of insurance”. Care therefore must be taken to ensure that any interaction between a credit union and one of these entities does not include an act prohibited by the Insurance Regulations, whether it involves promotion of MemberCARE or CFS, the disclosure of member or customer information to those entities, referrals, or the physical proximity of the credit union to those entities.

In closing, I ask that you please ensure that all credit union board members and applicable credit union personnel are made aware of the requirements mentioned above.

If you have any questions about this letter, please feel free to call me at (306)787-7881.

Yours truly,

Original signed by:

J. M. Hall  
Registrar of Credit Unions

cc: Pam Skotnitsky, SaskCentral  
Hon. Frank Quennell, Q.C., Minister of Justice and Attorney General