

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION



IN RE:

UNITED STATES TREASURY TAX
AND LOAN DEPOSITARY ACTIVITIES
FOR FLORIDA STATE-CHARTERED
CREDIT UNIONS

Administrative Proceeding
OFR No. 0206-B-4/05

ORDER OF GENERAL APPLICATION

In exercise of the powers and authority vested in it pursuant to Sections 655.012(1) and 655.061, Florida Statutes, the Office of Financial Regulation (“OFR”) finds that:

1. The National Credit Union Administration (“NCUA”) has authorized Federal credit unions to serve as United States Treasury Department tax and loan depositories, depositories of Federal taxes, depositories of public money, and financial agents of the United States Government (“TT&L Program”). 12 C.F.R. § 701.37(b) (2005). The operations are an exception to the limitations on public unit and non-member deposits set forth in Section 701.32 of the NCUA Rules and Regulations. 12 C.F.R. § 701.32(c) (2005). Section 701.37 states the TT&L Program activities are subject to the regulation of the Treasury Department and further states, in pertinent part:

In serving these capacities, a Federal credit union may maintain the accounts defined in subsection (a), pledge collateral, and perform the services described under United States Treasury Department regulations for institutions acting in these capacities.

(c) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and a U.S. Treasury Time Deposit-Open Account shall be considered deposits of public funds. Funds held in a TT&L Remittance Account and a TT&L Note Account shall be added together and insured up to a maximum of \$100,000 in the aggregate. Funds held in a Treasury General Account and a U.S. Treasury Time Deposit-Open Account shall be added together and insured up to a maximum of \$100,000 in the aggregate.

(d) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and U.S. Treasury Time Deposit-Open Account are not subject to the 60-day notice requirement of Article III, Section 5(a) of the Federal Credit Union Bylaws.

2. Florida state-chartered credit unions are restricted by statute regarding acceptance of nonmember deposits. Section 657.031(6), Florida Statutes (2004), states that a Florida credit union shall have the power to: “Receive shares and deposits from its members and other credit unions; however, no credit union shall receive shares or deposits from persons, other than credit unions, who are not members of the credit union, except to a joint account in which at least one of the tenants is a member of the credit union.”

Florida state-chartered credit unions eligible for “RegFlex” (i.e., those exempted from significant events reporting per Section 655.948(4)(a), Florida Statutes, and meeting the net worth and CAMEL rating eligibility criteria for the National Credit Union Administration’s Regulatory Flexibility Program, as specified in 12 C.F.R. Part 742) are authorized to establish and maintain some Federal public unit and nonmember accounts in accordance with NCUA Rule § 701.32 and the exemption of § 742.4(a), consistent with the limitations of Chapter 280, Florida Statutes. *See In Re: Regulatory Flexibility for Florida State-Chartered Credit Unions, Order of General Application, OFR Admin. Proc. No. 0146-B-8/04 (Feb. 7, 2005).* However, the RegFlex authorization does not specifically address the participation of Florida credit unions in the TT&L Program.

Florida credit unions are therefore placed at a competitive disadvantage with Federal credit unions in that they are not permitted to participate in the TT&L Program.

3. The OFR is specifically authorized to issue an order of general application to grant state financial institutions the necessary powers and privileges to maintain competitive

equality with federal financial institutions, when such an order is in the public interest. Section 655.061, Florida Statutes, provides that (with emphasis added):

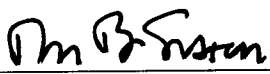
Subject to the prior approval of the office pursuant to commission rule or office order of general application, state financial institutions subject to the financial institutions codes may make any loan or investment or exercise any power which they could make or exercise if incorporated or operating in this state as a federally chartered or regulated financial institution of the same type and are entitled to all privileges and protections granted federally chartered or regulated financial institutions of the same type under federal statutes and regulations. The provisions of this section take precedence over, and must be given effect over, any other general or specific provisions of the financial institutions codes to the contrary. In issuing an order or rule under this section, the office or commission shall consider the importance of maintaining a competitive dual system of financial institutions and whether such an order or rule is in the public interest.

4. The OFR has therefore determined that it is in the public interest and important to the maintenance of the competitive dual system of regulation that Florida-chartered credit unions are permitted to exercise the same powers to participate in the TT&L Program as a Federal credit union operating in Florida.

Upon consideration of the foregoing, it is therefore **ORDERED**:

That any Florida state-chartered credit union, notwithstanding the restrictions of Section 657.031(6), Florida Statutes, may serve as a United States Treasury Department tax and loan depository, a depository of Federal taxes, a depository of public money, and a financial agent of the United States Government, in accordance with Section 701.37, National Credit Union Administration Rules and Regulations.

DONE AND ORDERED this 11th day of May, 2005, in Tallahassee, Leon County, Florida.



Don B. Saxon, Commissioner
Office of Financial Regulation