JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER, DIRECTOR

LINDA A. WATTERS
COMMISSIONER

DATE: July 12, 2004

LETTER NO.: 2004-CU-06

TO: The Board of Directors and Management of Michigan State-Chartered Credit Unions

SUBJECT: Deferred Compensation Agreement

Under the previous Michigan Credit Union Act, approval was necessary in order to hold otherwise nonconforming investments related to deferred compensation agreements. However, Section 401(2)(ss) of the current Michigan Credit Union Act, effective June 1, 2004, grants credit unions the authority "To purchase insurance policies and other investment products to fund deferred compensation arrangements for its employees. If the deferred compensation arrangement does not present a risk to the safety and soundness of the domestic credit union, the purchase of those investment products is not subject to the limitation of this act."

Pursuant to this shift in focus from individual program approval to review during the scheduled safety and soundness examination, the Office of Financial and Insurance Services is publishing this letter to outline safety and soundness considerations OFIS will utilize in our review of a deferred compensation plan. This is not meant to be an all inclusive list, but a general discussion.

- Each board of directors must develop a clear, concise investment policy. The investment policy must address, at a minimum, all of the investment activities in which the credit union engages as outlined in Bulletin 97-1. The policy should include guidelines on acceptable investments for deferred compensation agreements as well as quantitative limitations on exposure to market, credit and liquidity risk including the following:
  - An aggregate limitation on investments of this type not to exceed 15% of net worth.
  - The plan is offered only to credit union employees, and not as a means of compensating volunteer officials.
  - The credit unions legal counsel has reviewed the plan to ensure compliance with the Internal Revenue Service Code and other applicable statues, and has issued a written opinion to that effect.
  - The credit union follows generally accepted accounting principles in accounting for all activities and investments relating to the plan.
  - The benefits provided to the employee are reasonable and in proportion to the benefit received by the credit union providing the plan.

- The plan does not result in an unsafe and unsound concentration of credit union assets in the funding vehicle.
- The plan is thoroughly reviewed and approved by the credit union's board of directors as part of an overall employee compensation program.

➢ Documented evidence of an effective program to monitor and control risks associated with all investment products as outlined in Credit Union Letter 2002-04.

➢ Any other safety and soundness concerns, including financial performance, that would impact the institutions ability to absorb possible losses from this type of investment.

As part of the recent Credit Union Act Modernization OFIS is reviewing all the Credit Union Division Rules, Bulletins and Letters for applicability with the new statute. Because of this, Bulletin 97-1 and Credit Union letter 2002-04 will likely be replaced with a new pronouncement outlining the appropriate safety and soundness considerations. All state-chartered credit unions will be notified by Credit Union Letter when the new pronouncements are published and available at the www.michigan.gov website.

Sincerely,

Roger W. Little, Deputy Commissioner
Credit Union Division