STATE OF IOWA

KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

IOWA DEPARTMENT OF COMMERCE
DIVISION OF CREDIT UNIONS
KATIE AVERILL, SUPERINTENDENT

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Iowa Division of Credit Unions
Regulatory Advisory Bulletin

Incidental Powers Authority – Iowa Code Section 533.301(11):

Iowa law authorizes a state-chartered credit union to "exercise such incidental powers as may be necessary or requisite to enable the state credit union to carry on the business effectively for which it is incorporated." Iowa Code § 533.301(11) (2023). The language of Iowa law regarding incidental powers is comparable to the Federal Credit Union Act. 12 C.F.R. Part 721. *See also* NCUA Opinion: Authority to Issue and Sell Securities, No. 17-0670, June 2017.

When analyzing the application of Iowa Code section 533.301(11), the IDCU applies the analysis established by the United States Supreme Court in NationsBank of North Carolina, NA v. Variable Annuity Life Ins. Co., 513 U.S. 251 (1995) ("VALIC"). The Supreme Court agreed with the Office of the Comptroller of Currency in finding "incidental powers" is an independent grant of authority, not limited to expansion of explicit powers. Id. An incidental power is determined if it is:

(1) convenient and useful in the mission or business of the credit union;
(2) a functional equivalent or logical outgrowth of the mission or business of the credit union;
(3) the risks of the activity are consistent and similar in nature to those the credit union has already assumed through the business of the credit union; and
(4) not inconsistent with applicable laws.

These factors are comparable with the NCUA's standards for federal credit unions. 12 C.F.R. Part 721.

Generally, any credit union seeking to engage in an incidental power must submit advanced 60 day regulatory notice to the IDCU along with evidence of (1) board approval, (2) due diligence, (3) board policy, and (4) other documents as requested. The IDCU will issue an objection or no-objection response as soon as practicable.

Please address any questions regarding reporting or for confirmation of treatment to your EIC.

Katie Averill
Superintendent of Credit Unions

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