



BULLETIN

Colorado Division of Financial Services

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Issued to: State-Chartered Credit Unions

Subject: Excess Share Insurance Corporation

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On January 14, 2002 the Colorado Division of Insurance licensed Excess Share Insurance Corporation ("ESI") of Dublin, Ohio as a general casualty company, whose intent is to sell excess (over and above federal limits) share insurance coverage to credit unions in Colorado. It is the opinion of the Division of Financial Services ("Division") that this is a permissible activity for state-chartered credit unions, as it constitutes the exercise of an incidental power pursuant to §11-30-104(1)(i), C.R.S. After reviewing a specimen ESI policy and supplemental financial information as well as having discussions with management of ESI, we have the following guidance regarding certain aspects of ESI's excess share insurance product.

Many of the excess share insurance policy provisions call for ESI to have access to certain regulatory information or to be notified of certain actions taken by regulatory bodies, unless the pertinent supervisory authority objects. Pursuant to §11-30-117.5(4), C.R.S. and Division Regulation 17.5 Confidentiality of Examinations, such information is considered confidential and may not be shared with ESI. Please note that the credit union board of directors cannot waive the non-disclosure requirement. In our opinion, said requirement applies not only to all examination reports but also to any correspondence, approvals, waivers, and other official supervisory actions such as letters of understanding and agreement and cease and desist orders. ESI has been informed of the Division's position.

As with other activities and their associated costs, the credit union must consider the impact of this coverage on the earnings of the credit union, not only from the amount of monthly premiums but also from the effects of the non-earning premium deposit. The insurance policy has very clear requirements with which the credit union must comply regarding the notification of members when there are any adverse changes in the coverage. Credit union management must ensure that no misleading information is disseminated to the members in these required communications or in any other materials distributed to members regarding the coverage.

ESI requires its insured credit unions to provide quarterly confidential member information on accounts covered by its excess share insurance policy. The Division questions the necessity of this requirement, noting that neither the NCUA nor the FDIC requires such information. Therefore, it will be incumbent upon the credit union to ensure that confidential member information provided to ESI is sufficiently protected so as to avoid any damage to member confidence. The credit union is also responsible for ensuring full Privacy Act compliance.

The Division expects that each credit union will take the above matters into account when performing due diligence prior to purchasing excess share insurance coverage.

While the Division does not object to this activity for state-chartered credit unions in Colorado, this bulletin should not be construed as an endorsement of the product or this particular vendor of the product. Please contact us if you have questions.