

Disaster Relief Support Guide for Credit Unions

Updated 09/15/2020



FUNDRAISING ACCOUNTS BY MEMBERS FOR MEMBERS

Unfortunately, every year natural disasters like [hurricanes](#), flooding, freezing temperatures and [wildfires](#) can cause [thousands of people to lose their homes, be displaced, and suffer catastrophic losses](#). Credit unions and those in the community may seek to assist individuals in their community by opening up fundraising accounts for their benefit. Unfortunately, [after a disaster](#) or similar occurrence, scammers [may also identify an opportunity](#) to take advantage of others' good intentions. For this reason, credit unions may want to consider whether they have sufficient policies in place to conduct appropriate due diligence of fundraising accounts.

ACCOUNT STRUCTURE

From a federal regulatory perspective, there is not a "right" way to open these accounts. The appropriate account structure depends on how the funds will be raised, whether the person holding the account is holding the funds for someone else, and whether the funds will be received by the beneficiary directly or through an organization.

The account could simply be a personal account to which others can make a donation, but which is held by the beneficiary for their direct support. Fundraisers could also open an 501(c)(3) corporation, a trust or another formal, charitable entity. Some states have statutes that specifically permit a support trust to receive money donated by any person to assist the beneficiary in the payment of medical, financial, educational, humanitarian or other similar needs.

If the account is being opened for a separate legal entity like a corporation, LLC or trust, the credit union can verify that documentation and registrations are on file with the appropriate state entity. If the legal entity claims to be tax exempt, the entity would likely have its own EIN and its tax status can be verified with the [IRS Select Check Tool](#).

DUE DILIGENCE

In order to avoid unknowingly assisting a scammer, it may be necessary to perform some due diligence in connection with the account. [Bankers Online has a list of helpful due diligence questions](#) to ask. The FTC also has a helpful [Charity Checklist](#) for avoiding charity scams. For legal charitable entities, there are a variety of websites to verify the legal and tax status of a charity including [Charity Navigator](#), the [Better Business Bureau](#) or [GuideStar](#). If a fraudulent charitable contribution scheme is uncovered, it can be [reported to the Department of Justice](#).

FIELD OF MEMBERSHIP

Regardless of how the account is held, the credit union must be able to open it under its policies and its field of membership. The analysis of whether the account falls within the credit union's field of membership may differ [depending on whether the account will be held by an individual, a trust](#) or a legal entity like a corporation, as well as the clauses included in the credit union's field of membership.

RESOURCES FOR CREDIT UNION MEMBERS

[When Disaster Strikes: Tips and Guidelines for Fundraising After a Natural Disaster or Major Event](#)

[IRS's Disaster Relief Resources for Charities and Contributors](#)

[GoFundMe.com](#)

FEDERAL CREDIT UNION AUTHORITY TO MAKE CHARITABLE DONATIONS

As cooperative associations organized to serve others in a bonded community, credit unions are especially focused on the needs of their community. In times of disaster or catastrophe, many credit unions begin to think about how they can help those in their community who are suffering. For federal credit unions (FCUs), the Federal Credit Union Act sets forth various powers that allow FCUs to take certain actions. Below is a summary of federal credit unions' powers with regard to charitable giving. It is important to note that state-chartered credit unions may have their own powers and limitations so those credit unions will need to check with their state's laws.

CHARITABLE CONTRIBUTIONS AND DONATIONS

NCUA has [preapproved the giving of charitable contributions and donations](#) as an incidental power held by FCUs. Those gifts can include donations to community groups, nonprofit organizations, other credit unions or credit union affiliated causes, political donations or donations to create charitable foundations.

Because [the authority to make charitable contributions is based on the FCU's incidental powers](#), the contribution must be necessary or requisite to enable the FCU to carry on its business. Previously, [NCUA has indicated](#) that charitable giving is useful to carrying out the credit union's business because it "can promote name recognition and generate goodwill in the FCU's community."

CHARITABLE FUNDRAISING ACCOUNTS

NCUA [regulations](#) provide FCUs with the incidental authority to invest in charitable donation accounts (CDAs), as long as the accounts meet some specific requirements.

- **PURPOSE** The primary purpose of a CDA must be to generate funds to donate to 501(c)(3) tax-exempt charities chosen by the FCU.
- **LIMITATIONS** The total aggregate investments in CDAs cannot exceed 5% of the FCU's net worth.

- **MINIMUM DISTRIBUTIONS** A minimum of 51% of the total investment return must be distributed to the charities no less frequently than every 5 years. Distributions can be made at any time.
- **CDA STRUCTURE** CDA assets must be held in segregated custodian accounts or special purpose entities specifically identified as CDAs; if the CDA is structured as a trust, the trustee must be regulated by the OCC, SEC, or another state or federal regulatory agency.
- **WRITTEN AGREEMENT AND POLICIES** A written agreement must control the terms and conditions of the CDAs. The federal credit union must also document the investment strategies, risk tolerances, and recordkeeping and accounting requirements for its CDAs.

ANOTHER WAY TO HELP: PROVIDING CORRESPONDENT SERVICES

Under the [FCU Act](#) and NCUA's [regulations](#), FCUs also have the ability to provide [emergency financial services](#) to other credit unions' members by virtue of their correspondent services incidental power. An FCU may provide to another credit union any service it is authorized to perform for its own members or as part of its operations. This can include [loan processing services](#), [loan servicing](#), check cashing services, [wire transfers](#), disbursing share withdraws, ATM deposit services [and more](#). [NCUA requires](#) that FCUs seeking to provide correspondent services first establish a written agreement addressing both credit unions' responsibilities and obligations under the arrangement. State-chartered credit unions may have similar authority under the law in their state.

OTHER RESOURCES

- This [NAFCU Compliance Blog post](#) discusses some regulatory considerations when a credit union is impacted by a disaster.
- This [NAFCU Compliance Blog post](#) summarizes 2019 changes to regulatory guidance on business continuity planning.
- [Interagency guidance](#) issued in 2017 provides information on how examiners will review credit unions' responses to disasters.