FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-6

Jeremiah J. Foley
The Cooperative Central Bank
225 Franklin Street
Boston, MA 02110

Dear Mr. Foley:

This responds to your letter of February, 6, 1984, requesting an advisory Opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the recognition of the Cooperative Central Bank as a qualified insurer of depositories holding Federal election campaign funds.

According to the information provided by you, Massachusetts law requires each cooperative bank to be a member of the Cooperative Central Bank. In turn, the Cooperative Central Bank insures all deposits at member cooperative banks as well as providing other assistance and services. Originally, cooperative banks under Massachusetts law were organized to offer various savings accounts or time deposits to its members or shareholders. Amendments to state law in 1981 expanded the range of services and accounts that cooperative banks could offer to include demand deposits or checking accounts. For the purposes of banking regulation, Massachusetts law defines "bank" to include a cooperative bank. You note that the Cooperative Central Bank has been recognized by the Secretary of the Treasury as a qualified insurer of financial institutions designated as Treasury tax and loan depositories and recognized by the Federal National Mortgage Association (FNMA) as a qualified insurer of depositories holding FNMA custodial funds. You ask that the Commission recognize the Cooperative Central Bank as a qualified insurer of depositories of Federal election campaign funds, thus permitting your member cooperative banks to accept deposits of such funds.

Regarding such depositories, the Act provides:

> Each political committee shall designate one or more state banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union

> Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. ....

2 U.S.C. 432(h)(1); see also 11 CFR 103.2. Under the predecessor provision, campaign depositories could be established at two types of institutions: (1) national banks; or (2) state banks. Federal Election Campaign Act Amendments of 1974, Pub. L. 93-443, 309, 88 Stat. 1263, 1280 (1974). The 1979 Amendments to the Act added a third category: depository institutions the accounts of which are insured by the FDIC, the FSLIC, or the NCUA. Federal Election Campaign Act Amendments of 1979, Pub. L. 96-187, §302(h)(1), 93 Stat. 1339, 1347 (1979).

Regarding this third category, the Act specifically identifies the qualified insurers. No provision in the Act or regulations gives the Commission authority to add other qualified insurers.* Accordingly, the Commission is unable to recognize the Cooperative Central Bank as a qualified insurer of depositories of Federal election campaign funds in the same context as the FDIC, the FSLIC, and the NCUA.

Nevertheless campaign depositories may still be established at member cooperative banks as "state banks." The history of the campaign depository provision demonstrates that the qualified insurer limitation applies only to depository institutions other than state banks or federally chartered depository institutions. The original 1974 provision directed the establishment of campaign depositories at state or national banks without any qualified insurer limitation. The principal limitation was the requirement that a checking account be established at the campaign depository. The 1979 Amendments expanded the types of institutions which could serve as campaign depositories at a time when other regulatory changes expanded the types of institutions which could offer checking accounts. Nothing in the legislative history suggests that the 1979 Amendments were intended to append the qualified insurer limitation to state banks or federally chartered depository institutions, where it had not previously existed. Thus, campaign depositories may be established at state banks, although such deposits are insured by agencies or corporations other than the FDIC, the FSLIC, or the NCUA.

The Commission notes that cooperative banks are incorporated and operated pursuant to Massachusetts state law and that Massachusetts law accords cooperative banks powers comparable to other types of banking institutions in that state, including the establishment of checking accounts. See Mass. Gen. Laws Ann. ch. 170, §1 et seq. (West Supp. 1983). Therefore, the Commission is of the opinion that cooperative banks in Massachusetts should be regarded as state banks for purposes of 2 U.S.C. 432(h)(1). Accordingly, cooperative banks may serve as depositories of Federal election campaign funds although deposits at such banks are insured by the Cooperative Central Bank, rather than by the FDIC, the FSLIC, or the NCUA.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

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* The Commission notes that the Act and Commission regulations differ in language from, for instance, those provisions that permit the Secretary of the Treasury to recognize qualified insurers of institutions with tax and loan depositories. See 31 U.S.C. 323; 31 CFR 226.2.

Sincerely yours,

(signed)

Lee Ann Elliott
Chairman for the
Federal Election Commission