



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

LS/YG:jm

4660

August 5, 1985

William E. Dick, Esq.
3210-16 Mallard Cove Lane
Fort Wayne, IN 46804

Dear Mr. Dick:

This responds to your letter of July 2, 1985, concerning the permissibility of Federal credit union (FCU) investment in three funds. They are: (1) the Seligman High Income Fund Series -- U.S. Government Guaranteed Securities Series (Seligman Government Securities), Prospectus dated March 11, 1985; (2) the Prudential-Bache Government Plus Fund, Inc. (Prudential Fund), Prospectus dated March 11, 1985; and (3) the Capital Preservation Fund (Capital Fund), Prospectus dated November 27, 1984. The Seligman Government Securities and the Prudential Fund will be addressed jointly.

Sections 107(7) and (8) of the Federal Credit Union Act (12 U.S.C. §1757(7) and (8)) and Part 703 of the NCUA Rules and Regulations (12 C.F.R. Part 703) are the pertinent provisions of Federal law regulating FCU investments and deposits. Although not expressly stated in these provisions, we have previously stated that investments in mutual funds or trusts are permissible for FCU's if all of the investments and investment practices of the fund or trust are permissible if made directly by the FCU.

I direct your attention to Section 703.4, which states in relevant part:

"(b) A Federal credit union may not buy or sell a futures contract."

Both the Seligman Government Securities and Prudential Fund engage in call options. We have previously stated that call options are a form of futures trading that is within the prohibition on investments in futures contracts. Hence, inasmuch as the buying or selling of futures contracts are prohibited activities for FCU's, it is our opinion that the Seligman Government Securities and Prudential Fund are not permissible investments for FCU's.

The Capital Fund, on the other hand, invests exclusively in U.S. Treasury obligations and does not engage in any activities that would be restricted by the FCU Act or the NCUA Rules and Regulations. Accordingly, it is the opinion of this Office that

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the Capital Preservation Fund is a permissible investment for FCU's. This should not, however, be interpreted or represented as NCUA's endorsement, recommendation, or approval of the Capital Preservation Fund. It is merely our opinion that the investment is legal for FCU's. Any communication with Federal credit unions concerning our opinion must clearly state this distinction.

I hope that we have been of assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read 'S. R. Bisker'.

STEVEN R. BISKER
Assistant General Counsel