



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

LS/HMU:DL
SSIC 4660

8/7/85

Jon Mark, Esquire
Cahill, Gordon & Reindel
Eighty Pine Street
New York, NY 10005

Dear Mr. Mark:

This is in response to your letter of July 10, 1985, concerning the permissibility of Federal credit union (FCU) investment in the Hutton Government Securities Management Program (HGSM Program).

As you know, we previously reviewed this investment for FCU's in a June 7, 1985, letter to Paul S. Gottlieb of E. F. Hutton. At that time, we stated that the delegation of investment authority from the FCU to Hutton was within the bounds of the FCU Act, but that there was insufficient information provided with respect to the HGSM program's investments and investment activities to determine whether the investment activities were in compliance with the FCU Act and NCUA Rules and Regulations (See 12 U.S.C. §1757(7) and (8) and 12 C.F.R. Part 703).

Enclosed with your July 10, 1985, letter, you have submitted a revised version of the Investment Agreement to be used in connection with the HGSM program. As noted on page one of the revised Investment Agreement, Hutton will make investments in "United States Treasury bills, notes, bonds, or other obligations of the United States or its agencies or repurchase or reverse-repurchase agreements for any of the foregoing as well as any other money market instruments or money market funds." Treasury bills, notes, bonds and other obligations of the United States or its agencies are permissible investments for FCU's pursuant to Section 107(7) of the FCU Act, 12 U.S.C. §1757(7).

Repurchase and reverse repurchase agreements are governed by Section 703.3 of the NCUA Rules and Regulations, 12 C.F.R. Part 703.3. Repurchase and reverse-repurchase agreement restrictions are set out on page six of the Investment Agreement. These limitations provide the necessary information to bring the repurchase and reverse-repurchase agreements in compliance with Section 703.3 of the Rules and Regulations.

The Investment Agreement also permits investment in certain money market instruments and money market funds. Investment in a money market instrument is legal as long as the instrument is a permitted investment if made directly by the FCU. Paragraph (c),

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found on page six brings money market instruments in compliance with the FCU Act and Part 703 of the Rules and Regulations. Although not expressly stated in the FCU Act or Regulations, it is the opinion of this Office that investment in a mutual fund is legal if the investments and investment practices of the fund are legal investments if made directly by the FCU. Paragraph (d), found on page six of the Investment Agreement attempts to bring such funds in compliance with the FCU Act and Part 703 of the Rules and Regulations. Paragraph (d) is somewhat unclear in that it only mentions restrictions on repurchase and reverse repurchase activities. Nothing is mentioned about the restrictions found in Part 703 on other types of investment activities. According to Ms. Ulan's telephone conversation with you, all of the requirements of Part 703 of the regulations will be met in the HGSM's mutual fund investments.

In light of the above, it is our opinion that terms of the revised Investment Agreement would not be violative of the FCU Act or the NCUA Rules and Regulations. However, this should not be interpreted or represented as NCUA's endorsement, recommendation, or approval of the Investment Agreement. Any communication with FCU's concerning our opinion must clearly state this distinction.

Thank you for your continued cooperation. I hope that we have been of assistance.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel