



GC/HMU:EA
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11/25/85

OFFICE OF GENERAL COUNSEL

Rodd M. Baxter, Esq.
Vice President and Assistant
General Counsel
Dean Witter Reynolds Inc.
InterCapital Division
One World Trade Center
New York, NY 10048

Dear Mr. Baxter:

This is in response to your letters of August 15 and September 4, 1985, concerning the permissibility of Federal credit union (FCU) investment in the ~~Dean Witter/Sears U.S. Government Money Market Trust (Trust)~~, prospectus dated March 5, 1985.

Sections 107(7) and (8) of the FCU 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.

Page four of the prospectus sets forth the types of securities in which the Trust will invest. The prospectus states that the Trust will invest in, among other things, securities that are "issued or guaranteed. . . by various instrumentalities which have been established or sponsored by the United States Government." As you know, FCU's are limited to the investment restrictions set forth in Sections 107(7) and (8) of the FCU Act. Basically, FCU's are limited to investments in (1) obligations of the United States or fully guaranteed as to principal and interest thereby; (2) obligations issued by wholly-owned government corporations; (3) obligations issued by or fully guaranteed as to principal and interest by any other government agency; (4) FDIC-and FSLIC-insured institutions; and (5) other investments specifically noted in Section 107(7). It is not clear from the Prospectus that investments in obligations guaranteed by agencies are fully guaranteed as to principal and interest by the agency. Further, the authority of the Trust to invest in securities issued or guaranteed by instrumentalities that are "established or sponsored by the United States

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Government" is quite broad and may not meet the requirements of Section 107(7) and (8). The Trust's prospectus or statement of additional information must clearly establish that the investment limitations of the FCU Act and NCUA regulations are satisfied.

Page five of the prospectus sets forth information on securities that the Trust may purchase on a when-issued or delayed delivery basis. As stated in Section 703.3(b) of our Regulations (12 C.F.R. §703.3(b)), the period from the trade date until the settlement date shall not exceed 120 days. This restriction must be set forth in either the prospectus or the statement of additional information. The supplement to the statement of additional information which you submitted with your September 4 letter will add this information. Once the 120 day limitation is made a part of the statement of additional information, our regulatory requirement will be met.

According to the prospectus, the Trust may enter into repurchase agreements. Repurchase agreements that are not entered into with members of the FCU or with those financial institutions specified in Section 703.2 of the Regulations must be investment-type repurchase agreements in compliance with Section 703.2(1)(1) and 703.3(d) of the Regulations. These requirements are met if the Trust is in compliance with the Investment Company Act of 1940, and the regulations and interpretations (Investment Act) issued pursuant thereto. Page 13 of the prospectus states that the Trust is a registered management company under the Investment Act. The Investment Act requires a registered management company to take actual possession of securities, or use of a custodian with certain restrictions, or use of the book entry system when it is involved in repurchase agreements. Hence, it is our opinion that our regulatory requirements are satisfied if the Trust is in compliance with the Investment Act.

Our regulations also allow for FCU's to enter repurchase agreements with certain financial institutions. (See Sections 703.2(1)(2), 703.2(n) and 703.3(d) of NCUA Regulations.) According to your August 15 letter, the Trust engages in repurchase agreements with its custodian bank, which is an FDIC-insured institution. Such repurchase agreements are in compliance with our regulations.

In summary, there is insufficient information contained in the prospectus and the statement of additional information to make a determination as to the permissibility of the Trust for FCU investment. If our opinion is required, the Prospectus or additional statement of information must be modified in accordance with this letter.

Rodd Baxter, Esq.

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We hope that we have been of assistance. Please contact Hattie Ulan of this Office if further questions arise.

Sincerely,

A handwritten signature in black ink, appearing to be "S.R. Bisker".

STEVEN R. BISKER
Assistant General Counsel

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