



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20356

Office of General Counsel

3-5-86

Gary P. Bosco, Esquire
Suite 900
1275 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Bosco:

This is in response to your letter of November 27, 1985, concerning Interpretive Ruling and Policy Statement (IRPS) 83-3-- Federal Credit Union Leasing of Personal Property to Members.

You first ask whether, pursuant to the IRPS, an FCU can become a lienor with a security interest in the leased vehicles rather than obtaining legal title to the vehicles? Under this arrangement, the leasing company, rather than the FCU, would enter into the lease transaction with the member. Further, the FCU would be making loans to the leasing company for the purchase of the vehicles to be leased.

As you know, an FCU cannot make a loan to a leasing company unless the leasing company is a member of the FCU or is otherwise eligible to obtain a loan from the FCU (e.g., a CUSO). Therefore, in response to your first question, it would be permissible for an FCU to engage in a leasing program in this manner provided the loans made under such an arrangement are made to a lessor eligible to obtain loans from the FCU.

Next, you inquire whether FCU's must maintain contingent liability policies under leasing plans. The preamble to IRPS 83-3 states that all of the burdens of ownership of a leased vehicle are to be placed on the lessee. This includes the responsibility to maintain insurance on the vehicle. As addressed in the IRPS, NCUA requires that the lessor FCU maintain a contingency liability policy with an endorsement for leasing should the FCU be sued as the owner of the vehicle. FCU's must obtain this insurance coverage whether it be through an individual or blanket policy.

Lastly, you inquire whether the IRPS would permit the residual value of a leased vehicle to be guaranteed by the leasing company. The IRPS requires that any residual value relied upon in excess of 25% of original cost be guaranteed. The preamble explains that the guarantee may be provided by a financially

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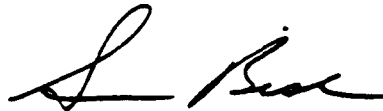
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capable party that is not an affiliate of the FCU. As long as the leasing company is not affiliated with the FCU (e.g., leasing company is not a CUSO of the FCU), such a guarantee would be permissible.

We hope that we have been of assistance. If further questions arise, please contact Hattie Ulan of this Office.

Sincerely,

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

STEVEN R. BISKER
Assistant General Counsel

HMU:cch