



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

Office of General Counsel

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EC/Amnicch  
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4-16-86

Dear Ms. Grossman:

This is in response to your letters of February 21 and February 24, 1986, concerning the legality of Federal credit union (FCU) investment in the Lexington GNMA Income Fund, Inc. (prospectus dated April 30, 1985) (GNMA Fund). Enclosed with your letters were the prospectus and Statement of Additional Information both dated April 30, 1985, and a supplement to the Statement of Additional Information dated February 19, 1986. We originally responded to an August 23, 1985, inquiry on November 4, 1985, and concluded that the GNMA Fund was an impermissible investment for FCU's due to its activity in cash forward agreements.

As stated in our November 4, 1985, letter to Ms. Penry-Williams of your law firm, Section 107(7) and (8) of the FCU Act (12 U.S.C. §§107(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 a mutual fund or trust 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.

As you know, Section 703.3(b) of the NCUA Regulations requires that the length of time between the trade date and the settlement date for cash forward agreements be within 120 days. There was insufficient information submitted with your letter of August 23, 1985, to determine whether the GNMA Fund was in compliance with Section 703.3(b) of the Regulations. The February 19, 1986, Supplement to the Statement of Additional Information states that the settlement date for delayed delivery or when-issued transactions will be no more than 120 days from the trade date. This change will bring the GNMA Fund into compliance with Section 703.3(b) of the Regulations. Hence, it is our conclusion that the GNMA Fund is now a legal investment for FCU's.

FCU in G.D. 116 T.F. 2 Legal Investment

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The Securities and Exchange Commission (SEC) recently addressed the areas of risk involved in investments in GNMA securities in letters to registrants of GNMA funds. The SEC noted that prospectus disclosures and advertisements must give equal weight to the benefits of the government guarantee and to the risks of yield and market fluctuation and early prepayment. Federal credit unions considering investment in a GNMA Fund should be made aware of these facts.

Our conclusion that the GNMA Fund is a legal investment for FCU's should not be interpreted or represented as our approval, endorsement or recommendation of the Fund for FCU investment. Any communication with FCU's concerning our opinion must clearly state this distinction.

I hope that we have been of assistance.

Sincerely,

KS

STEVEN R. BISKER  
Assistant General General

HMU:cch