



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

December 11, 1986

Office of General Counsel
Mr. Randall McCathren
Executive Vice President
Bank Lease Consultants Inc.
3401 West End Avenue
Nashville, TN 37203

GCI/HMU:sg
4/650

Dear Mr. McCathren:

This is in response to your letter concerning conventional balloon loans and repurchase balloon loans and whether these programs are permissible for Federal credit unions (FCU's). We apologize for the delay in our response.

Conventional balloon loans differ from traditional loans in that there is a lump sum (balloon) payment due at the end of the financing period. FCU's can make balloon loans pursuant to Section 107(5) of the FCU Act (12 U.S.C §1757(5)) and Section 701.21 of the NCUA Regulations (12 C.F.R. §701.21). Conventional balloon loans are subject to the same requirements as other FCU loans. You analogize the conventional balloon program to an open-end lease program permissible for FCU's pursuant to Interpretive Ruling and Policy Statement 83-3 - FCU Leasing of Personal Property (IRPS 83-3). IRPS 83-3 has no bearing on an FCU's authority to offer conventional balloon loans. They are loans rather than leases and no analogy to permissible leases need be made.

The repurchase balloon loan differs from the conventional balloon loan in that, in addition to a lump sum (balloon) payment being due at the end of the financing period, the borrower has the option of returning the property (vehicle) to the FCU at the end of the financing period for a predetermined residual value in lieu of the balloon payment. We do not view the repurchase balloon loan program as a loan of money. A loan of money is a delivery of a sum of money to another under a contract to return at some future time an equivalent amount with or without interest. (See, e.g., Boerner v. Colwell Co., 577 P.2d 200.) The repurchase balloon loan program is not consistent with the generally accepted definition of a loan because it gives the borrower an option to return property rather than money. As you know, the NCUA has authorized FCU's to lease personal property to their members if the leases are the functional equivalent of loans. (See IRPS 83-3.) The repurchase balloon loan program

Conventional and Repurchase Balloons

Mr. Randall McCathren

Page Two

does not meet the requirements of IRPS 83-3 since the borrower/member has title to the property rather than the FCU.

Under the repurchase balloon program, the FCU is not the lessor as is required by IRPS 83-3. The fact that the repurchase balloon loans are similar in other respects to permissible leasing does not bring them within authorized activities for FCU's. The repurchase balloon program is neither a permissible loan nor lease for FCU's. Rather, it is a hybrid program that is not authorized for FCU's.

In summary, conventional balloon loans are permissible for FCU's while the repurchase balloon loan program is not.

I hope that we have been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

HMU:sg