



NATIONAL CREDIT UNION ADMINISTRATION

Washington, D.C. 20456

February 13, 1987

GC/HMU:sg
4650

Office of General Counsel

Donald M. Sherrill
President
Arizona Telco Federal Credit Union
P.O. Box 675
Phoenix, AZ 85001

Dear Mr. Sherrill:

This is in response to your letter of August 20, 1986, and Richard B. Sanders' letter of December 11, 1986, concerning a personal property leasing program for Federal credit unions (FCU's). Enclosed with the letters were copies of proposed agreements between your FCU and a leasing company.

NCUA Interpretive Ruling and Policy Statement 83-3 entitled "FCU Leasing of Personal Property to Members" (IRPS 83-3) involves only those instances where an FCU itself leases property to its members. IRPS 83-3 provides that "FCU's may engage in leasing of personal property to their members when certain requirements are met." It is our understanding from the letters and enclosed proposed agreements that your members will enter into leases with a leasing company. Your FCU will be financing the members' leases. (See second WHEREAS clause and paragraph 2.B. of first agreement and paragraph 2.2 of second agreement). The leasing company will assign all its right, title and interest in the lease contracts to your FCU. In addition, the leasing company grants your FCU a security interest in the leased vehicles (see paragraph 1.K. of first agreement and paragraph 1.10 of second agreement).

It is unclear exactly how your FCU will be involved in the lease transactions. Under IRPS 83-3, an FCU may become involved in either direct or indirect leasing. In direct leasing, the FCU becomes the owner of personal property and leases it to its member. In indirect leasing, the FCU purchases the lease and lease property after the lease has been executed between a vendor and an FCU member (see preamble to IRPS 83-3). Neither situation is described by the letter and the agreements. Hence, we do not believe IRPS 83-3 to be applicable.

FOIA file:

Vol. I, C, 5.
110 T 0 11

Special Loan Plans
T. M. M. L. M. L.

Mr. Donald M. Sherrill

Page Two

Although not specified in your letters, it appears to us that your FCU may be intending to loan money to the leasing company, and in conjunction with such loans, the leasing company will assign its rights in the lease contracts to your FCU as well as grant your FCU a security interest in the leased vehicles. As you know, an FCU may only make loans to its members. In addition, loans to non-natural person members are limited to that non-natural person's shareholdings in the FCU (see Article XII, Section 1 of the Standard FCU Bylaws). If your FCU is contemplating making loans to a leasing company, the leasing company must be within the FCU's field of membership. Such loans must comply with Section 107(5) of the FCU Act (12 U.S.C. 1757(5)), Section 701.21 of the NCUA Rules and Regulations (12 C.F.R. 701.21), and Article XII, Section 1 of the FCU Bylaws. In addition, all loans must satisfy appropriate safety and soundness concerns.

I hope that we have been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

HMU:sg

cc: Richard B. Sanders, Esq.