



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

GC/HMU:sg  
4693

TO: Regional Director, Region VI (Walnut Creek)  
Robert J. LaPorte

FROM: Assistant General Counsel  
Steven R. Bisker *ARB*

SUBJ: Determination of Risk Assets in Regard to Investments in  
and Loans to CUSO's

DATE: March 10, 1987

This is in response to your memorandum concerning the above noted subject. This is the issue as we view it. If a CUSO (organized as a corporation) whose assets are comprised entirely of fixed assets that the two participating credit unions lease back from the CUSO, are investments in and loans to the CUSO risk or nonrisk assets for reserve purposes?

We believe that this issue can be addressed from both an accounting and a legal standpoint. For that reason, we have discussed the issue with the Office Examination and Insurance. The requester approaches the issue from an accounting standpoint. He states that the reserve transfer should be made after consolidation of financial statements. He reasons that, once the FCU's and CUSO's financial statements are consolidated (required by GAAP and Section 701.27(d)(7) of the NCUA Rules and Regulations), the CUSO's assets appear on the FCU's financial statements as property and equipment rather than investments in and loans to a CUSO. Since furniture, equipment, land, and buildings are excluded from risk assets for purposes of reserves (see Sections 700.1(j)(11) and (12) of the NCUA Rules and Regulations), these assets should be excluded from the reserve transfer. It is the position of the Office of Examination and Insurance that the reserve transfer should be made before consolidation.

Investments in and loans to a CUSO are not exempted from risk assets pursuant to Section 700.1(j). Therefore, investments in and loans to a CUSO would be treated as risk assets regardless of how the funds are utilized. E&I has informed us that GAAP does not specifically address the issue of whether a reserve transfer should be made before or after consolidation of financial statements. E&I takes the position that the reserve transfer should be made before consolidation for safety and soundness reasons. Although, in the particular situation presented, the FCU's and CUSO may be in good financial condition and a reserve

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transfer after consolidation may not cause any safety and soundness concerns, E&I does not want to adopt a policy allowing for a reserve transfer after consolidation. A reserve transfer on fewer assets (after consolidation) could cause safety and soundness problems in other credit unions.

From a legal standpoint, it is the opinion of this Office that Sections 700.1(j)(11) and (12) (exempting furniture, equipment, land, and buildings from risk assets) do not apply to FCU investment in and loans to CUSO's that purchase land, buildings, furniture, and equipment and lease them to the FCU's. While it is the case that such loans and investments are defined as "fixed assets" for purposes of the limitation on investment in fixed assets (see Section 701.36 of NCUA Regulations), it is our opinion that such characterization does not carry over to Section 700.1(j). It cannot be said that a direct investment in land, a building, equipment, etc., is the same as investment in a corporation that owns such assets. The two are not perfect substitutes and, in our opinion, present potentially different elements of risk. We therefore opine that the appropriate interpretation of Section 700.1(j) is one in which only those assets specifically excluded from the definition of risk assets need not be reserved against. Since we do not directly regulate CUSO's, we do not believe it to be prudent, as a matter of policy, to exclude from reserve requirements investments in and/or loans to CUSO's even though the CUSO assets are comprised entirely of fixed assets used by the FCU's.

Please contact Karen Fulton of the Office of Examination & Insurance or Hattie Ulan of this Office if further questions arise.

cc: E&I  
All Regions