



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

May 4, 1987

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4660

Office of General Counsel

Mr. Michael Mercer
President/CEO
Georgia Credit Union Affiliates
P.O. Box 95766
Atlanta, GA 30347

Dear Mr. Mercer:

This is in response to your letter concerning Federal credit union ("FCU") investment in collateralized mortgage obligations ("CMO's") and consumer automobile paper.

Your first question involves the issue of FCU investment in CMO's. As you know Section 107(15) of the FCU Act, 12 U.S.C. §1757(15), states in part that:

"[A Federal credit union shall have power] to invest in securities that-

- (B) are mortgage related securities . . . subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue . . . or minimum aggregate sales prices, or both;"

Privately issued CMO's come within the purview of Section 107(15)(B) of the FCU Act. The authority provided in Section 107(15)(B) is not effective until NCUA implements it through regulation or an interpretive ruling. We anticipate that the NCUA Board will issue either a proposed rule or an interpretive ruling or take some other action in the near future. FCU's may not invest in privately-issued CMO's until NCUA implements the authority. CMO's that are issued by one of the entities listed in Section 107(7) of the FCU Act, (12 U.S.C. § 1757(7)) (e.g., CMO's issued by FHLMC, REMIC's issued by FNMA) are permissible investments for FCU's at this time.

Your second question is whether FCU's may invest in auto paper backed securities. Enclosed with your letter was a prospectus and prospectus supplement for Asset Backed Obligations Collateralized by Automobile Receivables issued by the First

FOIA file. Vol I, E, R - nonpermissible investment

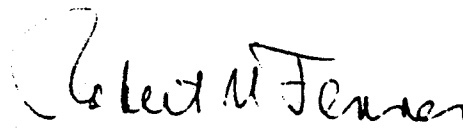
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Boston Corporation (both dated October 8, 1986) ("Auto backed receivables"). As more fully explained below, investment in the auto backed receivables is not legal for FCU's.

FCU investments are limited as set forth in Section 107(7) of the FCU Act. This Section does not expressly authorize investment in auto backed receivables. It might be possible to view the investment as an investment in an equitable interest in the underlying automobile loans. The authority of a Federal credit union to invest in loans, however, is generally limited to (1) origination of loans by the credit union to its own members (see Sections 107(5) and 107(7)(A) of the Act and Section 701.21 of NCUA's regulations (12 C.F.R. §701.21)); (2) purchase by the credit union of "eligible obligations" of its own members and student and real estate loans to be sold on the secondary market (see Section 107(13) of the FCU Act and Section 701.23 of NCUA's regulations (12 C.F.R. §701.23)); (3) purchase of notes made by individual members of a liquidating credit union (see Section 107(13) and 107(14) of the FCU Act and Paragraph I of NCUA Interpretive Ruling 84-1); and (4) purchase of "assets" from another credit union (see Section 107(14) of the Act -- also note that, with the exception of Paragraph I of Interpretive Ruling 84-1, NCUA has not promulgated implementing regulations concerning this authority). It does not appear to us that any of these provisions would authorize an FCU to invest in the auto backed receivables.

I hope that we have been of assistance.

Sincerely,



ROBERT M. FENNER
General Counsel

HMU:sg

c.c. Mr. Karl Hoyle