



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/HMU:sg
4650

June 24, 1987

Office of General Counsel

Barbara Fraser, Esq.
Merrill Lynch Asset Management, Inc.
Post Office Box 9011
Princeton, NJ 08543-9011

Dear Ms. Fraser:

This is in response to your letter concerning Merrill Lynch Asset Management managing a portion of a Federal credit union's ("FCU's") investment funds. Enclosed with your letter were Investment Guidelines that Merrill Lynch will follow in managing the FCU's funds.

Two issues are presented here. First, it must be determined that Merrill Lynch may serve as investment manager for the FCU's funds. Second, it must be determined that all of the investments and investment activities that Merrill Lynch engages in for the FCU are permissible investments for FCU's pursuant to Sections 107(7) and (8) of the FCU Act (12 U.S.C. 1757(7) and (8)) and Part 703 of the NCUA Rules and Regulations (12 C.F.R. 703) (FCU's investment authority).

Section 113(6) of the FCU Act (12 U.S.C. §1761b(6)) provides that an FCU's board of directors shall have charge of investments. It must be determined whether or not it is a proper delegation of investment authority for an FCU's board of directors to hire Merrill Lynch to make certain investment decisions for them. We have stated in the past that an FCU's board of directors can delegate some of its investment authority to an entity such as Merrill Lynch. An agreement between the FCU and Merrill Lynch was not submitted with your letter. Paragraph 5 of the Investment Guidelines submitted states that the Merrill Lynch Investment Manager will be permitted limited discretion to operate within the scope of the agreed-upon guidelines and restrictions, as set forth by the credit union's board of directors and the NCUA. We do not know what restrictions the board of directors has set forth. Hence, we cannot make a determination as to the permissibility of the delegation. In addition, paragraphs 7 and 8 of the Investment Guidelines mention Trustees. Federal credit unions do not have Trustees; they have directors. It is unclear to us who the Trustees are.

Vol. III, A, 4a - Delegation of Authority.

Vol. I, E, 1 - Permissible Investments

FOIA

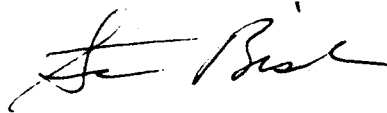
Barbara Fraser, Esq.
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As you know, Sections 107(7) and (8) of the FCU Act and Part 703 of the NCUA Rules and Regulations are the provisions of Federal law regulating FCU investments and deposits. The Investment Guidelines limit investments to the Sections of the FCU Act and Regulations cited above. However, our experience is that those outside of the credit union industry have more often than not misinterpreted what is permitted under these provisions of law. A broad authorizing provision such as the one contained in the Guidelines may result in the purchase of an impermissible investment. We therefore would not recommend such a provision, although the Investment Guidelines set forth permissible investments for FCU's.

This opinion should not be interpreted as an approval or endorsement of the Investment Guidelines. It is merely our opinion that the investments authorized pursuant to the Guidelines are legal for FCU's.

I hope that we have been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

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