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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

February 14, 1989

Office of General Counsel

Mr. Jack Boyle
Moneyfor
639 Denver Blvd.
Edison, NJ 08820

Re: Credit Union Endorsement of a Mutual Fund
(Your January 23, 1989, Letter)

Dear Mr. Boyle:

You asked if a Federal credit union can endorse a particular mutual fund and make it available to its membership. It can, pursuant to Part 721 of the NCUA Regulations. Alternatively, it may utilize a credit union service organization which is authorized to perform securities brokerage services pursuant to Section 701.27 of the NCUA Regulations.

BACKGROUND

You have put together a no-load mutual fund with several different series, each of which may appeal to different types of investors. You are interested in marketing the fund and asked us whether a Federal credit union ("FCU") could market the fund to its membership.

ANALYSIS

Part 721 of the NCUA Regulations (12 C.F.R. Part 721) is entitled "FCU Insurance and Group Purchasing Activities." This Part authorizes FCU's to become involved in such activities and places limitations on reimbursements that FCU's can receive when offering such plans.

FOIA
Vol. III, C, 2a CUSO's

Section 721.1 provides:

A Federal credit union may make insurance and group purchasing plans involving outside vendors available to the membership (including endorsement), and may perform administrative functions on behalf of the vendors.

Section 721.2 provides, in part:

* * *

(a)(2) "Cost amount" shall mean the total of the direct and indirect costs to the Federal credit union of any administrative functions performed on behalf of the vendor. The Federal credit union must be able to justify this amount using standard accounting procedures.

(b) A Federal credit union may be reimbursed or compensated by a vendor for activities performed under §721.1 as follows:

* * *

(3) For group purchasing plans other than insurance, a Federal credit union may receive an amount not exceeding the cost amount.

Pursuant to Part 721, an FCU can make available and endorse a mutual fund to its membership. It can only be reimbursed for its costs for any administrative functions it provides on behalf of the vendor of the fund.

Section 701.27 of the NCUA Regulations (12 C.F.R. §701.27) sets forth the requirements an FCU must follow when it invests in or loans to a credit union service organization ("CUSO"). Securities brokerage services is listed in the regulation as one of the permissible CUSO services. (See Section 701.27(d)(5)(ii).) Hence, an FCU can make a mutual fund available to its membership through the use of a CUSO.

Mr. Jack Boyle
February 14, 1989
Page 3

We reach no conclusions as to (1) liability or (2) the applicability of Federal or state securities laws when either an FCU itself or with the use of a CUSO becomes involved in promoting a particular mutual fund to its members. We would urge any FCU to contact local counsel familiar with these issues before becoming involved in such a program.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Acting Assistant General Counsel

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