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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

March 20, 1989

Office of General Counsel

Mr. John P. Barber
Director for Financial Services Policy
Office of the Comptroller
Department of Defense
Room 1A658
The Pentagon
Washington, DC 20301

Re: Proposed Revisions to DoD Instructions
1000.10 and 1000.11 (Your February 7, 1989, Letter
to Mr. Chatfield)

Dear Mr. Barber:

Thank you for providing NCUA with an opportunity to comment on the proposed revisions to DoD Instructions 1000.10 (Procedures Governing Credit Unions on DoD Installations) and 1000.11 (Financial Institutions on DoD Installations). Our comments are as follows:

DoD Instruction 1000.10 - Procedures Governing Credit Unions on DoD Installations

1. Paragraph E.4.a. states:

When the installation (community) commander determines that credit union services are needed at a location within an existing geographic franchise (see paragraph H.2., enclosure 2), and the DoD Component headquarters concurs, it shall contact the servicing Defense credit union and request that a branch or facility be established. The basic decision concerning such extensions of service rests with the servicing credit union. If a geographic franchise has not previously been designated by NCUA, the DoD Component shall canvass Federally-chartered Defense credit

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unions for proposals to establish a branch or facility.

This section is somewhat unclear. First, NCUA does not grant franchises. It grants charters to Federal credit unions with a specified field of membership. Use of the word "franchise" is misleading. Second, with respect to the final sentence of this paragraph, it should be clarified that if credit union services are to be provided to a group which is not currently within a credit union's field of membership, a charter amendment approved by NCUA would be needed before the new group could be served. We suggest the following modification:

When the installation (community) commander determines that a credit union branch or facility is needed to serve members within a credit union's field of membership (see paragraph H.2., enclosure 2), and the DoD Component headquarters concurs, it shall contact the servicing Defense credit union and request that a branch or facility be established. The basic decision concerning such extensions of service rests with the servicing credit union. If an existing credit union's field of membership does not include groups determined to be in need of credit union service, the DoD Component shall canvass federally-chartered Defense credit unions for proposals to provide service to these groups. A proposed amendment to the federally-chartered credit union's charter would need to be submitted to NCUA for approval in order for the credit union to provide service to the new group.

2. Paragraph H.2. also uses the word "franchise." We suggest that the term "field of membership" be substituted for "territorial franchise."

3. Paragraph H.5. provides:

In accordance with NCUA rules and regulations, no credit union loans may be made for the purpose of purchasing real property or purchasing or erecting any type of residence in any country outside the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

Section 701.21(g) of NCUA's Rules and Regulations (12 C.F.R. 701.21(g)) prohibits a Federal credit union from granting a long-term mortgage loan on a residence which is located outside the

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United States of America, its territories and possessions, or the Commonwealth of Puerto Rico. This restriction applies only to long-term (in excess of 15 years) first mortgage loans. Federal credit unions are permitted to take a security interest in property outside the areas listed in Section 701.21(g) for shorter-term mortgage loans (under Section 701.21(f) of the NCUA Regulations) and for all loans with maturities of 12 years or less. This would be a decision within the discretion of an FCU's board of directors. NCUA could object to such security interests if it determined that they presented safety and soundness problems.

4. Paragraph H.6. states that all NCUA "rules, regulations procedural forms, reports and manuals directly apply to all Defense credit union branches and facilities operating overseas." NCUA regulates federally-chartered credit unions, and to a limited extent, federally-insured state-chartered credit unions. NCUA has no authority over nonfederally-insured, state-chartered credit unions which may be operating overseas.

5. Paragraph H.7. provides in part that "Funds shall be deposited and invested in accordance with the authority applicable to federal credit unions." This paragraph applies only to overseas credit unions. You may wish to add a general statement to enclosure 2 clarifying that the operations of all federally-chartered Defense credit unions are subject to regulation by the NCUA.

We have only one comment on Directive 1000.11 - Financial Institutions on DoD Installations.

Paragraph A.1. of the Guidelines for Application of the Privacy Act to Financial Institutions on DoD Installations provides:

Financial institutions and their branches and facilities operating on military installations do not fall within the purview of 12 U.S.C. 1751 et seq. (Reference (f)).

12 U.S.C. 1751 et seq. is the Federal Credit Union Act. We believe this citation to be incorrect. The correct citation is probably the Privacy Act (5 U.S.C. 552a) since the rest of paragraph A. addresses applicability of the Privacy Act.

Sincerely,

Hattie M. Ulan for

ROBERT M. FENNER
General Counsel