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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

June 1, 1989

Office of General Counsel

Mr. Sheldon Greene
Greene, Kelley & Tobriner
10 United Nations Plaza
Suite 220
San Francisco, California 94102

Re: Request for Removal of Limitations on Loans
to Nonnatural Members (Your April 25, 1989,
Letter)

Dear Mr. Greene:

You have requested that the National Credit Union Administration permit Federal credit unions ("FCU's") to make loans to nonprofit entities without the restrictions applied to loans made to nonnatural person members. You have made this request so that nonprofit entities can use the increased amount borrowed from FCU's to develop affordable housing in the San Francisco area. The restriction on loans to nonnatural person members is found in the Standard FCU Bylaws. A nonstandard amendment to the bylaw should be submitted to NCUA's Regional Office for approval.

APPLICABLE LAW

Article XII, Section 1 of the Standard FCU Bylaws states that "[l]oans to a member other than a natural person shall not be in excess of its shareholdings in this credit union." In conjunction with the issuance of the member business loan regulation (Section 701.21(h) of NCUA's Rules and Regulations, 12 C.F.R. §701.21(h)), the NCUA Board approved a standard bylaw amendment to this section which states:

. . . Loans to a member other than a natural person shall not be in excess of its shareholdings in this credit union, unless the loan is made jointly to one or more natural person members and a business organization in which they have majority interest, or if the

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nonnatural person is an association the loan is made jointly to a majority of the members of the association and to the association in its own right.

ANALYSIS

Bylaw Restriction

The rationale for Article XII, Section 1 of the FCU Bylaws was to prevent nonnatural persons from being a drain on an FCU's liquidity to the detriment of natural person members. (See 51 Fed. Reg. 23234, 23238, June 26, 1986.)

The rationale for the restriction on nonnatural members also applies to the category of nonprofit entities. Traditionally, loans to nonnatural person members are more likely to become problem (delinquent, substandard, nonperforming) loans than are the typical consumer loans. The restriction minimizes risk to the credit union and the National Credit Union Share Insurance Fund. In your very general letter, you have not demonstrated that the exception you have requested for nonprofit entities would be an acceptable risk that would benefit credit union members. In addition, you have not submitted a proposed nonstandard bylaw amendment, just a general request for a change in policy. For the reasons stated above, a change in policy is not appropriate at this time. However, if you wish to submit a specific nonstandard bylaw amendment for a particular FCU, the amendment should be submitted to the appropriate NCUA Regional Office for approval.

CUSO Issue

As an enclosure to your letter, you submitted a general prospectus for a credit union service organization (CUSO). As you may know, FCU's investing in or loaning to CUSO's need not obtain NCUA approval before making such an investment or loan. However, FCU's must comply with all of the provisions of Section 701.27 of the NCUA Rules and Regulations (12 C.F.R. §701.27), the regulation governing FCU's involvement with CUSO's.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel

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