



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

Office of General Counsel

GC/MM:sg  
4650  
89-0701

August 14, 1989

Mr. James L. Geary  
AXXESS  
841 Douglas Avenue  
Altamonte Springs FL 32714

Re: Automobile Leasing Program (Your June 27, 1989,  
Letter)

Dear Mr. Geary:

You have forwarded to this Office further documentation on the automobile leasing program your company offers to Federal credit unions ("FCU's"). Your program now appears to be in conformance with NCUA requirements.

**BACKGROUND**

In our May 31, 1989 letter to you, we reiterated that it is impermissible for an FCU to make a loan to a nonmember leasing company as part of an indirect automobile leasing program it offers to its members. In addition, we had three concerns on whether your program was in compliance with IRPS 83-3. They were the following:

1. We were unable to locate a definitive statement to the effect that, where a residual value in excess of 25% of the original cost is relied on, the residual value over 25% is insured or guaranteed.
2. IRPS 83-3 requires that an FCU maintain a contingent liability insurance policy with an endorsement for leasing. In an indirect leasing program, this policy can be maintained by the leasing company provided the FCU is a coinsured. Your earlier documentation did not list the FCU as an insured party.

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3. An unconditional and irrevocable power of attorney authorizing the FCU to assign at will title to itself or anyone it chooses, if the FCU does not have title to the leased automobile in an indirect lease, is required. We were unable to make a determination if this power of attorney existed from your previous documentation.

#### ANALYSIS

You provided us with a modified Security Agreement which eliminated any reference to a loan and assigns all rights and a security interest in the lease to the credit union. This is consistent with the FCU Act. You also provided us with the following documentation:

1. A copy of a Residual Policy from Provident-Washington along with a sample certificate from Wheelways, the administrator of the policy. Although the policy does not state that residual value over 25% of original cost is insured, it does insure all of the residual value regardless of percentage. As long as the cost of ordinary wear and tear is not deducted from the adjusted residual value, this policy would be in compliance with IRPS 83-3.

2. A sample copy of an endorsement for contingent and excess and interim liability coverage coinsuring the credit union. This responds to our previous objection and is in compliance with IRPS 83-3.

3. An irrevocable and unconditional power of attorney for the credit union authorizing the credit union to assign at will title to itself or anyone else it chooses. This responds satisfactorily to our previous objection and is in compliance with IRPS 83-3.

The leasing program is in compliance with the requirements of IRPS 83-3. Although the program may be in compliance with IRPS 83-3, our analysis should not be construed as recommending the program for FCU's. Before participating in the program, an FCU should review all documents pertaining to the program to determine their responsibilities and obligations. An FCU should also satisfy itself that the leasing company they are dealing with is in a sound financial position.

Sincerely,



HATTIE M. ULAN  
Assistant General Counsel