NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

April 23, 1990

Office of General Counsel

Leo J. Dailey, Esq.
Nolan & Dailey
1070 Main Street
Coventry, Rhode Island 02816

Re: Coventry Credit Union (Your March 9, and March 23, 1990, Letters)

Dear Mr. Dailey:

You have asked us the following: 1) Whether an employee, who is either a director, officer, or committee member, may receive a discounted loan rate if all other employees of the credit union are receiving such a discount? No. 2) Whether a director, who is serving without compensation, may receive a business loan from the credit union? Yes.

BACKGROUND

Coventry Credit Union is a state-chartered federally insured credit union. The credit union currently gives all employees of the credit union, including employees who are officers, directors and committee members, a one percent discount on loans. The discount is not given to nonemployees who are officers, directors or committee members.

APPLICABLE LAW

Section 741.3 of NCUA Rules and Regulations (12 C.F.R. §741.3) states, in part, that:

> Any credit union which is insured pursuant to Title II of the Act must adhere to the requirements stated in §701.21(h) concerning member business loans, §701.21(c)(8) concerning prohibited fees, and §701.21(d)(5)

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> concerning nonpreferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirement if the state regulatory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board.

Therefore, Sections 701.21(c)(8), 701.21(d)(5) and 701.21(h) of NCUA Rules and Regulations apply to state-chartered federally insured credit unions. Rhode Island has not received an exemption from the Regulations. The analysis below concerns the interpretation of the NCUA Rules and Regulations.

ANALYSIS

PREFERENTIAL LOANS TO OFFICIALS

Section 701.21(d)(5) of NCUA's Rules and Regulations (12 C.F.R. §701.21(d)(5)) prohibits the granting of preferential loans to credit union officials. Section 701.21(d)(2) defines an official as a member of the board of directors, credit committee, or supervisory committee.

A literal reading of Section 701.21(d)(5) prohibits preferential loans to credit union officials, regardless of whether they are also credit union employees. Moreover, we believe that the effectiveness of the regulation in limiting insider dealing would be inhibited by an interpretation allowing officials who are also credit union employees to receive preferential loans as part of their employee compensation package.

BUSINESS LOANS TO DIRECTORS

Section 701.21(h)(3) prohibits a credit union from making member business loans to the member of the board of directors who is compensated. Uncompensated directors may receive business loans from the credit union. However, the preamble to the regulation (52 F.R. 12365, April 16, 1987) does address one possible problem area. If authorized by state law, uncompensated directors may be allowed:

> to receive a small stipend for attending each board meeting, in addition to their reimbursement for expenses. These stipends, although small, would cause those directors to lose their status as volunteers for purposes of the prohibition. Therefore, if a director de-

sires to obtain a business loan from his/her credit union he/she should forego the stipend.

The credit union should address this issue before making any business loans to uncompensated directors.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

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