



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

May 25, 1990

Yvonne Gilmore, Esq.
Associate Director of Regulatory Affairs
National Association of Federal Credit Unions
P.O. Box 3769
Washington, D.C. 20007

Re: NCUA's Office of General Counsel Opinion Letter
89-0820 dated September 12, 1989 (Your
January 31, 1990, Letter)

Dear Ms. Gilmore:

You have asked that we review the above-referenced opinion regarding Federal credit union ("FCU") investment in credit union service organizations ("CUSOs"). You asked that we determine that an FCU is not required to invest in or loan to a CUSO in order to obtain a service for its members through the CUSO. We agree that a CUSO can provide a service to an FCU's members without the FCU having invested in the CUSO. The CUSO may be treated as a third party vendor. Problems will arise, however, if a CUSO that provides services to affiliated credit union members only, begins expanding its services to nonaffiliated credit union members. At some point, it may no longer qualify as a CUSO for FCU lending or investment purposes.

ANALYSIS

Section 701.27(d)(4) of NCUA's Regulations (12 C.F.R. 701.27(d)(4)) states:

A Federal credit union may invest in or loan to a credit union service organization only if the organization primarily serves credit unions and/or the membership of affiliated credit unions (as defined in paragraph (c)(1) of this Section).

Section 701.27(c)(1) defines affiliated credit unions as:

those credit unions that have either invested in or made loans to a credit union service organization.

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In one previous opinion letter we interpreted these provisions to require that an FCU first invest in or loan to a CUSO in order for that CUSO to provide a service to that FCU's members, but an FCU investment in or loan to a CUSO is not required where the service provided by the CUSO is to the FCU itself.

In response to your letter, we have reviewed this position and have determined that it is overly restrictive. We agree that an FCU should not be required to invest in or loan to a CUSO in order to obtain a service for its members from the CUSO. In this instance, an FCU is dealing with a third party vendor. The FCU obtaining services of a third-party vendor CUSO does not need to be concerned with the CUSO regulation. However, before an FCU can invest in or loan to a CUSO that provides a service to credit union members, Section 701.27(d)(4) requires that the CUSO primarily serve members of those credit unions that have invested in or loaned to the CUSO. Hence, a CUSO could become an impermissible investment for FCU's if the CUSO begins primarily providing services to members of nonaffiliated credit unions rather than affiliated credit unions. If the service provided by the CUSO is to the FCU, rather than credit union members, credit union affiliation does not become an issue.

Sincerely,



HATTIE M. ULAN
Associate General Counsel
Office of General Counsel

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