

FEDERAL CREDIT UNION ADMINISTRATION

REGULATION 12 CFR 701.27

May 25, 1990

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Miller Carson & Boxberger  
1400 One Summit Square  
Fort Wayne, Indiana 46802-3173

Re: Professional Federal Credit Union (Your  
January 9, 1990, Letter)

Dear Mr. Carson:

You have asked that we reconsider our earlier letter to you in which we determined that a credit union service organization ("CUSO") that provides an automobile leasing program to Federal credit unions ("FCU's") is primarily providing a service to FCU members rather than to the FCU itself. Your position is that the program is offered primarily for the benefit of FCU's. We continue to believe that the program is primarily provided to the FCU's members. However, we have reconsidered our position that an FCU must invest in or loan to a CUSO in order for the CUSO to provide a service to the FCU's members. An FCU may contract with a CUSO for the provision of services to its members without investing in or loaning to the CUSO. If the FCU wants to invest in or loan to a CUSO that provides a service to its members, the CUSO must primarily serve members of credit unions that have invested in or loaned to the CUSO.

ANALYSIS

In our prior opinion, we determined that the automobile leasing program you described was a service to both an FCU and its members. We further stated that Section 701.27(d)(4) of the NCUSA Regulations (12 CFR 701.27 (d)(4)), which provides:

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 . . .

FOIA

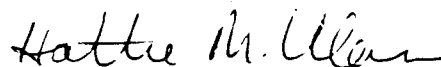
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requires an FCU investment in or loan to the CUSO when a service is being primarily provided to the FCU's members, regardless of whether the FCU also benefits from the service.

We continue to believe that the automobile leasing program is primarily a service to the FCU's members, although we do recognize that the program also benefits the FCU. However, we have reconsidered our position that an FCU must invest in or loan to a CUSO in order for the CUSO to provide a service to the FCU members. In the past, we have interpreted Section 701.27(d)(4) to require FCU investment in or loan to a CUSO when the CUSO provides a service to that FCU's members. We now believe that this position is overly restrictive. An FCU is not required to invest in or loan to a CUSO in order to obtain a service for its members from the CUSO. However, before an FCU can invest in or loan to a CUSO that provides a service to the FCU's members, Section 701.27(d)(4) requires that the CUSO primarily serve members of credit unions that have invested in or loaned to the CUSO. If the service provided by the CUSO is to the FCU, FCU investment in or loan to the CUSO is permissible if the CUSO primarily services credit unions. In this latter instance, the CUSO is not required to primarily serve credit unions that have invested in or loaned to the CUSO.

Sincerely,



HATTIE M. ULAN  
Associate General Counsel

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