



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

November 1, 1990

Bruce A. Beatus  
Vedder, Price, Kaufman & Kammholz  
222 North La Salle Street  
Chicago, IL 60601-1003

Re: **Asset Management Fund** (Your  
September 13, 1990, Letter)

Dear Mr. Beatus:

You have asked whether the use of reverse repurchase transactions by the Intermediate-Term Liquidity Portfolio (the Intermediate Portfolio) of the Asset Management Fund for Financial Institutions, Inc. (the Fund) limits the ability of federal credit unions (FCUs) to invest in the Intermediate Portfolio. Yes, FCU's are so limited; however, investment in the Fund is not precluded if all statutory and regulatory limitations are adhered to.

Background

You state that the Intermediate Portfolio invests its assets primarily in short intermediate-term U.S. Government and other debt securities and may also enter into repurchase and reverse repurchase agreements. You state that the Intermediate Portfolio will only enter into reverse repurchase transactions authorized under Section 703.3(e) of NCUA's Rules and Regulations (12 C.F.R. §703.3(e)). You wonder whether the use of reverse repurchase transactions by the Intermediate Portfolio adversely affects an FCU's ability to invest in the Intermediate Portfolio, in light of the borrowing limitation of Section 107(9) of the FCU Act (12 U.S.C. §1757(9)).

Analysis

As you know, the National Credit Union Administration (NCUA) has taken the position that FCUs can invest in a mutual fund

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or a common trust if its portfolio is limited to investments, investment activities, and deposits authorized for FCUs. Section 703.3(e) of the Rules and Regulations authorizes FCUs to enter into reverse repurchase transactions:

provided that either any securities purchased with the funds obtained from the transaction or the securities collateralizing the transaction have a maturity date not later than the settlement date for the reverse repurchase transaction. A reverse repurchase transaction is a borrowing transaction subject to Section 107(9) of the Federal Credit Union Act (12 U.S.C. §1757(9)), which limits a Federal credit union's aggregate borrowing to 50 percent of its unimpaired capital and surplus.

The limitation on an FCU's ability to directly engage in reverse repurchase transactions applies as well to its involvement in such transactions via a share in a mutual fund. Thus, an FCU would have to monitor its investment in the Intermediate Portfolio to ensure that its pro rata share of the Portfolio multiplied by the assets of the Portfolio allocated to reverse repurchases, taken together with the FCU's other borrowings, does not exceed 50 percent of the FCU's unimpaired capital and surplus.

You maintain that the Intermediate Portfolio conducts its reverse repurchase transactions in a secure and restricted manner and conclude, therefore, that the use of such transactions does not adversely affect an FCU's ability to invest in the Intermediate Portfolio. Your conclusion is not justified, however, as the issue is not the safety and soundness of the Intermediate Portfolio's investment portfolio, but the restrictions of the FCU Act. You also rely on the asserted stability of the Intermediate Portfolio's shares and the fact that it is an eligible investment for other financial institutions to conclude that FCUs should not be restricted in their ability to invest in the Intermediate Portfolio. That reliance is misplaced. If all the underlying investments in the Intermediate Portfolio are authorized for FCUs, an issue that you must determine, then the stability of the Portfolio's shares may be relevant to a particular FCU's investment decision. The fact that the other financial institutions may invest in the Intermediate

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Portfolio is not relevant, as FCU investment authority is contained in Sections 107(7), (8), and (15) of the FCU Act (12 U.S.C. §1757(7), (8), and (15)) and Part 703 of NCUA's Rules and Regulations (12 C.F.R. Part 703).

Sincerely,

*Hattie M. Ulan*

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Associate General Counsel

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