



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 2, 1991

Morgan Reed
U.S. Sterling Capital Corp.
20 Peachtree
Holbrook, NY 11741

Re: Federal Credit Union Investment Authority
(Your November 29, 1990, Letter)

Dear Mr. Reed:

You have asked whether federal credit unions (FCUs) may purchase negotiable certificates of deposit (CDs) and deposit notes, both of which are issued by FDIC insured national banks. The purchase is made for the FCU through a clearing agent, who owns the investment and is offering it to you for sale to your customers. After the transaction is made, the clearing agent holds the investment as agent for each beneficiary (FCU).

Analysis

Federal credit union investment and deposit authority is governed by Sections 107(7), (8) and (15) of the FCU Act (12 U.S.C. §§1757(7), (8) and (15)) and Part 703 of the National Credit Union Administration (NCUA) Rules and Regulations (12 C.F.R. Part 703). Under Section 107(8) of the FCU Act, an FCU may make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state in which the federal credit union does business, or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation.

In determining what constitutes a "deposit" under Section 107(8), we have generally looked to the Federal Reserve Board's Regulation D (12 C.F.R. §204) for guidance. Regulation D sets forth the reserve requirements for

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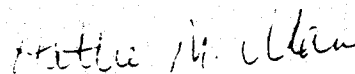
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depository institutions, including FCUs, and contains a definition of the term "deposit" (see 12 C.F.R. §204.2). Negotiable CDs are clearly "deposits" within the meaning of Regulation D (see 12 C.F.R. §204.2(c)(1)) and are permissible investments for FCUs under Section 107(8). As to deposit notes, we have determined that deposit notes that are called and recorded by the issuing bank as deposits, where the issuing bank is FDIC insured, constitute "deposits" under Regulation D and are permissible investments for FCUs under Section 107(8) (see Horner Letter, dated September 30, 1988, enclosed). We have also determined that negotiable time deposits are permissible investments for FCUs (see Brush Letter, dated July 16, 1987, enclosed). Since the definition of "deposit" is quite specific, however, we have not stated generally that all deposit notes are permissible investments.

You have not provided us sufficient information regarding the nature of the deposit notes in which you are interested for us to determine whether they qualify as deposits under Regulation D. If you wish to provide a more complete description of the notes and where they fit within the Regulation D definition of deposit, we will evaluate whether they constitute permissible investments for FCUs.

As to the mechanism by which the FCU invests in the CDs, we note that while there is no legal requirement that the FCU make the purchase directly or hold the investment itself, NCUA examiners may take exception to certain practices based on safety and soundness considerations.

Sincerely,



Hattie M. Ulan
Associate General Counsel

Enclosures

GC/LH:sg
SSIC 4660
90-1201