



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

August 1, 1991

Patrick G. Calhoun
President/C.E.O.
State Employees Federal Credit Union
P.O. Box 12189
Albany, NY 12212-2189

Re: Investment in Stock of Federal Home Loan Banks
(Your May 29, 1991, Letter)

Dear Mr. Calhoun:

You are evaluating membership in the Federal Home Loan Bank of New York. You have asked about the permissibility of federal credit union (FCU) membership in a Federal Home Loan Bank (FHLB), the asset classification of FHLB stock, and the release of certain reports to a FHLB.

Analysis

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) authorized FCU investment in the stock of a FHLB. However, FIRREA limited the investment to the minimum amount of stock required for FHLB membership or to secure an advance from a FHLB. Enclosed please find a copy of the opinion you requested, #89-0837, which discusses this issue.

As you know, Section 700.1(i) of the National Credit Union Administration (NCUA) Rules and Regulations, 12 C.F.R. §700.1(i), sets forth a list of assets that are not considered risk assets. NCUA's definition of risk assets is an administrative definition used to establish the reserves that FCUs must set aside for losses on loans and other contingencies. It may not conform to the definition of the term "risk asset" as used in industry. We note your argument

FOIA

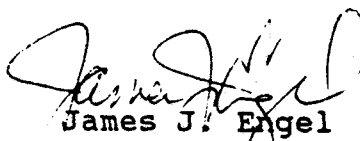
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that FHLB stock presents little or no economic risk; however, since it is not listed in Section 700.1(i), it must be considered a risk asset. We have forwarded a copy of your letter to the Office of Examination and Insurance, which serves as NCUA's expert on accounting principles and standards. They will keep your comments on file for reference during the next review of Section 700.1(i).

You state that copies of your current examination and 5300 reports are required for membership application in the FHLB and that you must agree to provide them upon request by the FHLB. You ask whether you may provide such reports to the FHLB. While we do not object to you providing copies of your 5300 reports, as we make such reports available to the public, you may not provide copies of your examination reports. Such reports are confidential and not intended for public disclosure. NCUA, however, has agreed to provide confidential information to a FHLB under certain conditions. You may direct the FHLB to request confidential information about your FCU's condition from the appropriate Regional Director.

Sincerely,



James J. Engel
Deputy General Counsel

Enclosure

cc: Tim Hornbrook

GC/LH:sg
SSIC 4620
91-0603



NATIONAL CREDIT UNION ADMINISTRATION
Washington, DC 20556

November 1, 1989

Office of General Counsel

GC/JT:sg
SSIC
89-0837

Mr. John F. Kinney
Chief Executive Officer
Electric Boat Community FCU
32 Chicago Avenue
Groton, Connecticut 06340

Re: FCU Investment in Stock of the Federal Home Loan
Banks (Your August 23, 1989, Letter)

Dear Mr. Kinney:

You have asked whether it is permissible for a Federal credit union ("FCU") to invest in stock of a Federal Home Loan Bank ("FHLB"). The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") authorized this investment for FCU's. However, the investment is limited by FIRREA to the minimum amount of stock required for FHLB membership or to secure an advance from a FHLB.

ANALYSIS

Section 704 of FIRREA amended Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) by expanding membership in the FHLB's to include federally-insured credit unions that engage in mortgage lending and that meet certain other requirements. The purpose of the FIRREA amendment was to strengthen the FHLB's and their ability to support the home mortgage market.

Sections 6(b) and 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1426(b) and 1430(e)), as amended by Sections 706 and

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714 of FIRREA, set forth the minimum stock purchase required for membership in a FHLB. Section 10(e) may also require the purchase of stock above this minimum when an FCU seeks an advance from a FHLB.

FIRREA did not amend the FCU Act to expressly provide for FCU investment in stock of an FHLB. Section 107(7)(E) of the FCU Act (12 U.S.C. 1757(7)(E)) authorizes FCU investment in obligations issued by FHLB's. It is not clear from the legislative history whether the term "obligations" was intended to include stock. However, it is our opinion that FIRREA establishes the authority for FCU investment in stock of an FHLB. Since there is no express authority in the FCU Act for FCU investment in FHLB stock, the investment must be limited to the minimum amount of stock required for membership in an FHLB, as established in Sections 6(b) and 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1426(b) and 1430(e)), as amended by FIRREA, plus any additional stock purchase required by Section 10(e) to obtain an advance from an FHLB.

While FHLB stock is a permissible investment for an FCU pursuant to the changes made by FIRREA, it is the responsibility of each FCU to make the determination as to whether the investment is advisable for the FCU, and whether an FHLB is an appropriate source of funds for an FCU. An FCU should consult with the FHLB in determining whether it qualifies for membership in the FHLB and the amount of the required stock purchase.

Finally, an FCU should be aware that Section 719 of FIRREA requires the NCUA to make available to an FHLB any examinations, reports, records, or other available information about the condition of an FHLB-member credit union.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Assistant General Counsel