



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

December 9, 1991

Keith Helm, Chairman  
Board of Directors  
Ent Federal Credit Union  
Box 15819  
Colorado Springs, CO 80935

Re: Government Trust Certificates (Your September  
26, 1991, Letter)

Dear Mr. Helm:

You have asked us to reconsider whether Government Trust Certificates (GTCs) are permissible investments for federal credit unions (FCUs). GTCs represent beneficial interests in the assets of certain trusts. The assets consist of promissory notes which are 90% guaranteed by the United States government and 10% collateralized by United States securities.

Section 107(7)(B) of the FCU Act, 12 U.S.C. §1757(7)(B), authorizes an FCU to invest its funds "in obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby." Section 107(7)(E) of the FCU Act, 12 U.S.C. §1757(7)(E), provides in part that FCUs may invest "in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any . . . agency of the United States."

In a 1988 opinion letter, we concluded that GTCs were permissible investments for FCUs. We stated that "the [10%] Collateral arrangement and the [90%] Guaranty satisf[ied] the requirement that the Certificates be 'fully guaranteed as to principal and interest' by the United States." In opinion letters issued in 1990 and earlier this year, however, we concluded that GTCs were not fully guaranteed as to principal

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and interest and thus were not permissible investments. These letters may have misrepresented the guarantee associated with GTCs.

GTCs themselves are not obligations of or guaranteed by the United States or any governmental agency. As noted above, GTCs represent interests in a trust whose assets consist of promissory notes that are 90% guaranteed by the United States government and 10% collateralized by United States securities. Thus, even if the promissory notes were 100% guaranteed, the actual certificate would not be guaranteed.

We would probably view such a certificate as a permissible investment, however, on the theory that the guarantee requirement of the FCU Act would be satisfied by the trust's authority to enforce the guarantee. Since the notes are only 90% guaranteed, however, the trust might end up having to enforce the promissory notes to get to the 10% collateral. Although the nonguaranteed portion of the notes is collateralized, perhaps making GTCs safe investments, we remain convinced that the collateral arrangement does not satisfy the guarantee requirement of the FCU Act. Thus, GTCs are not permissible investments for FCUs.

Sincerely,



Hattie M. Ulan  
Associate General Counsel

cc: Senator Jepsen

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