

April 24, 1992

David M. Schram
President/CEO
Northwest Telco
Credit Union
2821 Hewitt Avenue
Everett, WA 98201-3890

Re: Eligible Obligations (Your Letter of March 20, 1992)

Dear Mr. Schram:

You requested a legal opinion regarding the NCUA eligible obligation regulation. 12 C.F.R. ~701.23. This regulation applies only to federal credit unions ("FCUs"). Northwest Telco Credit Union ("NWTCU") is a federally insured, state-chartered credit union ("FISCU"). Section 701.23 of the NCUA Rules and Regulations does not apply to FISCUs. Section 741.4 of the NCUA Rules and Regulations does apply to the purchase and acquisition of loans by FISCUs, but does not apply to purchases of real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market. 12 C.F.R. ~741.4(b)(1). You stated in your letter that the Washington State Supervisor, Division of Savings and Loan, has approved your program to act as a seller/servicer of real estate secured loans for the secondary market. We would advise you to follow the requirements and guidance of your primary regulator.

Each FCU selling loans to NWTCU has the responsibility to ensure that it complies with the FCU Act and NCUA Rules and Regulations. FCUs must originate real estate secured loans in accordance with NCUA requirements. See 12 U.S.C. ~1757(5)(A), 12 C.F.R. ~701.21(g), NCUA Letter to Credit Unions Nos. 124 (June 1991), and 125 (June 1991) (enclosed). FCUs may sell real estate secured loans to NWTCU if such sales meet the requirements of the eligible obligation regulation. 12 C.F.R. ~701.23. Sales of loans are allowable if made within the limitations of the written sale policies of the board of director's of the FCU, the board of directors or investment committee approves the sale, and a written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office. 12 C.F.R. ~701.23(c). As long as the requirements of Section 701.23 are met, FCUs may sell real estate secured loans to NWTCU unless the Region has safety and soundness concerns.

In addition, you state that NWTCU has formed a credit union service organization ("CUSO"), The Snohomish County CUSO, to provide other credit unions with real estate loan processing and servicing. It is unclear whether NWTCU is the only investor in this CUSO. Any FCU that invests in or loans money to a CUSO is subject to Section 701.27 of the NCUA Rules and Regulations. 12 C.F.R. ~701.27. A copy of that regulation is enclosed for your review.

Sincerely,

Hattie M. Ulan
Associate General Counsel

cc: Daniel Murphy,
Region VI Director

GC/MEC:sg
SSIC 4650

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Enclosures