

December 6, 1996

Roderick R. Rovzar
Norman, Hanson & DeTroy
P.O. Box 4600
Portland, ME 04112-4600

Re: Credit Union Service Organization ("CUSO") Leasing Activity (Your Letter of September 13, 1996)

Dear Mr. Rovzar:

You requested a legal opinion regarding the permissibility of a CUSO leasing excess office or retail space to non-credit union users. The wholly-owned CUSO in question was formed by a federal credit union ("FCU") for the purpose of acquiring real estate to be leased to the FCU for use as an office facility. As owner of the property, the CUSO occupies a portion of the building and uses its space for credit union related activities. There is, however, excess space and the use of this space gives rise to your request.

The CUSO's property consists of what was once a restaurant and conference center. Given the historical use of the premises, the CUSO wants to rent a portion of the premises to credit unions and other entities to conduct occasional conference functions (including municipal meetings and hearings, weddings, charity auctions, and credit union annual meetings). You project that the CUSO premises may be rented to non-credit union users twice monthly during 1997 and 1998, but that the majority of use will serve the FCU, its members, and other credit unions. You represent that the CUSO maintains comprehensive liability insurance coverage on the premises and requires lessees to obtain and maintain adequate insurance coverage for their functions and to indemnify the CUSO for any liability arising from the lessee's use.

It is clear that an FCU can invest in or loan to a CUSO that leases fixed assets. 12 C.F.R. §701.27(d)(i). As defined in 12 C.F.R. §701.36(b)(3), fixed assets includes real estate where the FCU transacts or will transact business. Since the FCU transacts business on the property in question, the CUSO's leasing of the property to the FCU is a permissible activity. In this case, the incidental leasing of the property to non-credit union entities would be permissible, subject to the limitation of 12 C.F.R. §701.27(d)(4). If leasing the property is the CUSO's only activity, it must primarily lease the property to credit unions and the members of affiliated credit unions.

If you have any questions, please call Sparky Conrey, Staff Attorney, at (703-518-6540).

Sincerely,

Michael J. McKenna
Acting Associate General Counsel

cc: Layne Bumgardner
Region I Director
GC/MS/MJMcK:sg
SSIC 3000
96-0923