

February 25, 2000

Bruce A. Pearson, Esq.
Styskal, Wiese & Melchione, LLP
550 North Brand Boulevard, Suite 550
Glendale, California 91203

Re: Trusts as Members and Loans to Trusts.

Dear Mr. Pearson:

You have asked us to reconsider our conclusions on the subject topics reached in a letter dated April 6, 1999, from me to Gerald Toland, President of Redstone Federal Credit Union (copy attached). As discussed below, we are revising our conclusions on two points: a revocable trust may qualify for membership and a loan to a trust is not necessarily a member business loan.

We stated in the April 6, 1999, letter that an irrevocable trust is eligible for membership in a federal credit union (FCU) if it is specifically named in the FCU's field of membership (FOM) or as an "organization of such persons" if the FCU has opted to include organizations of such persons in its FOM. We also stated that an organization of such persons means an organization composed exclusively of persons who are within the FCU's FOM. For an irrevocable trust, those persons would be the settlors, trustees, and beneficiaries of the trust. We do not depart from these conclusions.

We also stated that only irrevocable trusts, which are operative upon formation, could qualify for membership as an organization of such persons. We concluded that revocable trusts could not qualify for membership because they are not operative until the death of the grantor. Upon reconsideration, we recognize that, for our purposes, revocable trusts are also operative upon their formation even though funds will not pass from the grantor to the beneficiary until the grantor's death. Although revocable trusts may be revoked, we believe that for membership eligibility purposes revocable and irrevocable trusts are to be treated the same. Accordingly, revocable and irrevocable trusts could qualify for membership under the conditions discussed above. We have previously expressed this opinion in letters dated October 12, 1995, to Kevin D. Hammar, Esq. and July 11, 1989, to Steven Bisker, Esq. (copies attached).

We further stated that, because a trust would be a nonnatural member, any loan to that trust would be a business loan subject to the member business loan requirements. Upon reconsideration, we wish to clarify that all loans to trusts are not necessarily member business loans. A member business loan, with certain exceptions not relevant to this discussion, is any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose. 12 U.S.C. §1757a(c)(1)(A); 12 C.F.R. §723.1(a). This definition focuses on the purpose for which loan proceeds will be used, not the nature of the borrower, to determine whether the extension of credit is a member business loan. Accordingly, a loan to a trust the proceeds of which will be used for purposes other than

those enumerated in the definition would not be a member business loan.

Any discussion in the April 6, 1999, letter on NCUA bylaws or standard bylaw amendments pertaining to loans to nonnatural members is no longer applicable. NCUA has since revised the bylaws which no longer specifically address loans to nonnatural members.

Sincerely,

Sheila A. Albin
Associate General Counsel

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Enclosures