May 12, 2000

Stephen J. Edwards, Esq.
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Re: Permissibility of Delayed-delivery Investment Transaction.

Dear Mr. Edwards:

You have asked us whether a federal credit union (FCU) may invest in a particular mutual fund. An FCU may invest in a mutual fund if the fund’s prospectus restricts it to investments and investment transactions permissible for FCUs. 12 C.F.R. §703.100(d). Your fund’s prospectus advises that the fund may purchase securities on a delayed-delivery basis. As discussed below, the purchase of securities on a delayed-delivery basis is impermissible for FCUs. Accordingly, your client FCU may not invest in the mutual fund.

FCUs that purchase securities must use regular-way settlement. 12 C.F.R. §703.100(a). "Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for that type of security." Id. This time frame varies depending on the type of security, but the securities industry has established a scheduled number of days for regular-way delivery of each security type. A "delayed-delivery" purchase, however, is defined as providing for "delivery of securities later than the scheduled date." John Downes and Jordan Goodman, Barron’s Dictionary of Finance and Investment Terms, 132 (4th ed. 1995). Delayed-delivery purchases do not use regular-way settlement and, thus, are impermissible investment transactions for FCUs. A mutual fund authorized by its prospectus to make such purchases is likewise an impermissible FCU investment.

Sincerely,

Sheila A. Albin
Associate General Counsel

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