

February 5, 2001

Steven Scarrella, Senior Vice President
Teacher Federal Credit Union
6500 Olson Memorial Highway
Minneapolis, MN 55427-4999

Re: Nonmember Mortgage Loans.

Dear Mr. Scarrella:

You have asked whether your federal credit union (FCU) may fund nonmember mortgage loans that are processed by your credit union service organization (CUSO). No, an FCU may not make mortgage loans to nonmembers. The FCU, however, may purchase nonmember mortgage loans made by the CUSO to complete a pool for sale on the secondary market.

You stated in your letter and in a conversation with our staff that the FCU's wholly owned CUSO processes mortgage loan applications for credit union members and forwards the applications to the FCU for approval and funding. Within a short period of time, the FCU then sells these member loans on the secondary market. The FCU and its CUSO would like to extend this program to nonmembers. You have asked specifically if the FCU may "hold nonmember mortgages on its books" until the loans are sold or if the CUSO must hold these loans its books. By "hold on its books," we understand, based on our conversations with you, that you are asking if the FCU may fund the nonmember loans or if the CUSO must make the proposed nonmember loans.

FCUs are authorized "to make loans . . . and extend lines of credit to members" 12 U.S.C. §1757(5). FCUs do not have the authority to extend credit to nonmembers. CUSOs, however, may make mortgage loans to individuals who are not members of the CUSO's parent credit union. Under our regulations, a CUSO may make consumer mortgage loans to nonmembers provided the CUSO primarily serves credit unions or credit union members, and otherwise meets the criteria in our rules. 12 C.F.R. §§ 712.3(b), 712.5(c). Our rules also authorize an FCU to purchase nonmember, real estate-secured loans from its CUSO to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market. See 12 C.F.R §701.23(b)(1)(iv). In the program you propose, the CUSO must fund the nonmember mortgage loans, but your FCU may purchase these loans if it will facilitate the packaging of a pool of mortgage loans for the secondary market. As required by the rule, the pool must include a substantial portion of the FCU's members' loans and be sold promptly.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/CJL:bhs
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