

February 13, 1991

Carl E. Rancourt
11 Royal Crest Drive
Apt. # 9
No. Andover, MA 01845

Re: Section 700.1(i) of NCUA's Rules and Regulations (Your January 29, 1991 Letter)

Dear Mr. Rancourt:

You have asked a number of questions concerning the definition of risk assets contained in Section 700.1(i) of NCUA's Rules and Regulations.

BACKGROUND

Section 700.1(i) (12 C.F.R. 700.1(i)) of NCUA's Rules and Regulations excludes certain assets from the definition of risk assets for the purpose of establishing reserve requirements under Section 116 of the Federal Credit Union Act (12 U.S.C. 1762). Section 700.1(i)(5) excludes from the definition of risk assets "[s]tudent loans insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs that have a remaining maturity of 3 years or less." Section 700.1(i)(6) excludes from the definition of risk assets "[l]oans that have a remaining maturity of 3 years or less and are fully insured or guaranteed by the Federal or a state government or any agency of either."

Section 700.1(h) defines remaining maturity as "the time period from the date of the required reserve transfer to the stated date of maturity of the instrument." Section 700.1(i)(15) states:

Investments in numbered items [700.1(i)] 2, 3, 4, 5, 6, and 7, with maturities greater than 3 years are exempt from risk assets if the investment is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly.

ANALYSIS

You have asked the following questions concerning the definition of risk assets:

1. Does Section 700.1(i)(5) apply to student loans granted by the credit union?
2. Does Section 700.1(i)(5) apply to student loans purchased by the credit union as an investment?

The definition does not differentiate between student loans granted by the credit union and student loans bought by the credit union for investment purposes. Section 700.1(i)(5) applies to both types of student loans.

3. Is the maturity date on student loans calculated as of the origination date or as of the date repayment begins?

It is defined as of the origination date. Although the vast majority of student loans would originally be classified as risk assets, as soon as the maturity date is less than three years, a loan would not retain the classification. In addition, student loans meeting the requirements of Section 700.1(i)(15) are not classified

as risk assets.

4. Does Section 700.1(i)(6) apply to insured FHA loans granted by the credit union?

5. Does Section 700.1(i)(6) apply to FHA loans purchased by the credit union as an investment?

Again, the definition does not differentiate between FHA loans made by the credit union and FHA loans bought by the credit union for investment purposes. Section 700.1(i)(6) applies to both types of FHA loans.

6. When an FHA loan is excluded from the definition of risk assets because it is insured, is the full amount of the loan excluded from the definition of risk assets? An FHA loan that is excluded from the definition of risk asset must be fully insured by the federal government. (See Section 700.1(i)(6) above.) A problem arises when an FHA loan is only 90% guaranteed by the federal government. According to Section 700.1(i)(6), if the loan is not fully guaranteed then no part of the loan can be excluded from the definition of risk assets.

Sincerely,

HATTIE M. ULAN
Associate General Counsel

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