

March 19, 1991

Cheryl N. Ray, Loan Manager
England Federal Credit Union
P.O. Box 12490
Alexandria, Louisiana 71375-2490

Re: Member Business Loans (Your March 6, 1991 Letter)

Dear Ms. Ray:

You requested clarification of the meaning of the phrase, "one other such dwelling owned by the member" in Section 701.21(h)(1)(i)(A)(3) of NCUA's Rules and Regulations, 12 C.F.R. ~701.21(h)(1)(i)(A)(3) ("exception (i)(A)(3)"). That phrase is not specifically defined. However, the meaning of the exception was discussed in the preamble to the rule (52 F.R. 12366, April 16, 1987). In the preamble, the NCUA Board stated that the three exceptions listed in Section 701.21(h)(1)(i)(A):

will permit a member to have a total of three fully secured loans (primary residence, secondary residence and one other) that would not otherwise be subject to Section 701.21(h). This change should accommodate those instances where a member purchases a new primary residence and does not sell his prior residence but, instead, rents it to a family member or other person. In many cases, the motivation to maintain the old residence is not investment oriented but rather to provide a home for a family member.

Although a former residence later rented out is the only example specifically discussed in the preamble, it is merely an illustration, and not the only type of property that falls within exception (i)(A)(3). Moreover, while the preamble suggests that investment oriented property does not fall within exception (i)(A)(3), the rule itself is not so narrow.

We have previously interpreted exception (i)(A)(3) in two letters, copies of which are enclosed. Although our responses were based upon the specific facts presented, the letters may further your understanding of the exception.

Please be advised that on January 24, 1991, the NCUA Board issued a proposed revision of Section 701.21(h), which would eliminate the current rule's exceptions for one to four family dwellings owned by the member. 56 F.R. 2723. We are enclosing a copy of the proposed rule for your information. We anticipate that the Board will issue a second proposed revision of Section 701.21(h) within the next few months, and that the newer version will also eliminate exception (i)(A)(3).

Sincerely,

Hattie M. Ulan
Associate General Counsel

Enclosures

GC/MRS:sg
SSIC 3500
91-0305