March 15, 1995

Gail M. Barndollar
President, Workmen's Circle Credit Union, Inc.
31 West Broughton Street, 2nd Floor
Savannah, Georgia 31401

Re: Section 701.22 of NCUA's Rules and Regulations (Your February 21, 1995, Letter)

Dear Ms. Barndollar:

You have requested an opinion, on behalf of your federally insured state-chartered credit union (FISCU), whether Section 701.22 of NCUA's Rules and Regulations limits "participation lending to participations with financial institutions." Section 701.22 applies only to federal credit unions (FCUs), not FISCUs. 12 C.F.R. 701.22(b). However, it is possible that an NCUA examiner may take exception to a FISCU's practices in this area on safety and soundness grounds. The answer as it applies to FCUs is no, but there are strict limitations on what entities may engage in participation loans.

The rule states:

(a) For purposes of this section:
(1) "participation loan" means a loan made in participation with one or more eligible organizations, where the written commitment to participate in the loan precedes final disbursement.
(2) "Eligible organization" means a credit union, credit union organization, or financial organization.

12 C.F.R. 701.22(a)(1) and (2). Under subsection (2) of this regulation, a credit union may enter into a participation loan with a credit union, credit union organization or financial organization, as examples. These are defined in the 1991 preamble to the loan participation rule amendments. "Financial organizations" are defined as "federally chartered or insured financial institutions, not to include insurance and finance companies, retirement and investment funds." A "Credit union organization" is limited to organizations "that provide services only to credit unions" and does not include "organizations that provide services to credit unions as well as credit union members," i.e., CUSOs. 56 Fed. Reg. 15035, April 15, 1991 (copy attached).

Sincerely,

Richard S. Schulman
Associate General Counsel

GC/MFR:bhs
SSIC 4650
95-0228
Enclosure