

September 8, 2010

Michelle Duhe, CEO  
Shell New Orleans Federal Credit Union  
701 Poydras St., Suite P100  
New Orleans, LA 70139

Re: Long-Term Principal Residence Loans.

Dear Ms. Duhe:

You asked several questions regarding long-term, principal residence mortgage loans made at a federal credit union (FCU). An FCU can make more than one first-lien, long-term residential mortgage loan to the same member if the loan is for the member's principal residence or intended for a future principal residence. Any additional loans secured by real estate would be subject to the maturity limits and other provisions of NCUA's general lending rules and, depending on the amount and purpose of the loan, NCUA's member business loan (MBL) rule. See 12 C.F.R. §701.21 and 12 C.F.R. §723.

First, you asked if an FCU member may obtain a long-term mortgage loan to purchase a second residence for a family member to live in while attending college. The borrower's family member would be the primary resident of the dwelling while studying and may share the residence with a roommate paying rent for space in the house. You asked if an FCU can make a long-term loan for this purpose. The answer is that the FCU can make this loan under the long-term mortgage lending authority only if the house is intended to be the future principal residence of the member.

The Federal Credit Union Act (FCU Act) and NCUA's general lending regulation permit FCUs to make long-term residential real estate loans with maturities of up to 40 years on a one-to-four-family dwelling "that is or will be the principal residence of the member-borrower." 12 U.S.C. 1757(5)(A)(i); 12 C.F.R. §701.21(g)(2). NCUA's longstanding position on this requirement is an FCU may offer more than one long-term mortgage loan to the same borrower if a loan is for a member's principal residence or for a residence that is intended to be the member's principal residence at some point in the future. An FCU will determine if the "principal residence" requirement is met at the time the loan is made. For example, if a member has a number of job transfers, and has maintained each old residence as an investment property, the member may have more than one long-term mortgage loan. A member can also get an additional long term mortgage loan on a retirement home. Thus, an FCU can make a long-term mortgage loan to a member to finance the purchase of an additional residence if, at the time of origination, the member intends to establish the dwelling as a

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principal residence at some future time, even if the residence will be occupied by a family member in the interim. The dwelling will still qualify as a future principal residence if space in the home is rented out, so long as the dwelling is currently intended as a future principal residence.

You also asked if an FCU can make a long-term residential real estate loan for a future principal residence if the entire dwelling will be rented out before it becomes the member's principal residence.

The preamble to the 1983 proposed revision to §701.21(g) of the lending rule noted that:

[t]he statutory requirement that the dwelling "is or will be" the principal residence of the member . . . would not require that the member occupy the dwelling within a certain time after the loan is made . . .

48 FR 52475 (Nov. 18, 1983). Accordingly, if a dwelling "will be" or is intended to be the principal residence of the member at some point in the future, a member may rent out a future principal residence for investment purposes before it becomes the member's principal residence.

You asked if an occupant of a future principal residence must be a credit union member if the occupant is not the borrower or a co-signer on the mortgage loan. If the occupant is not participating in the loan the occupant does not have to be a credit union member. The borrower, however, must be a credit union member. The FCU Act and the FCU Bylaws provide that FCUs may only extend credit to members. 12 U.S.C. §1757(5); FCU Bylaws, Art. XI, §1. Additionally, nonmembers may participate in loans if their involvement does not distort the direct lending relationship between the FCU and the member. See OGC Op. 00-0605 (Aug. 28, 2000).

Note, however, that while an FCU can make an additional long-term mortgage loan to a member to purchase a future principal residence, a member can only have one principal residence at a given time. A long-term loan to finance a member's secondary principal residence (i.e., two principal residences at one time) is not permitted. See OGC Op. 92-0330 (May 27, 1992).

Sincerely,

/S/

Hattie M. Ulan  
Associate General Counsel

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