



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

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OCT 03 1985

Ms. Kathy J. Bogardus
New York State Credit Union
League, Inc.
2 Wall Street
Albany, NY 12205

Dear Ms. Bogardus:

This is in reply to your letter dated August 20, 1985, to Mr. Robert Fenner of this Office concerning the applicability of a recently enacted New York State law to Federal credit unions (FCU's). You note that the law, which regulates the ~~payment of dividends on time deposits and certificates of deposit~~, is asserted (by the State) to be applicable to State and Federal credit unions. You ask whether the New York State law is preempted by Section 701.35 of the NCUA Rules and Regulations.

It is the opinion of this Office that the subject New York State law is preempted by Section 701.35. Section 701.35 of the NCUA Rules and Regulations was substantially deregulated in 1982. In deregulating that Section, it was the intent of the NCUA Board to place the responsibility for determining the terms and conditions of such accounts solely with each FCU's board of directors. NCUA was and remains aware that some states, such as New York, have purported to have the authority to regulate Federal credit unions on such matters.

Accordingly, the recent amendment to Section 701.35 was intended to make clear that Federal credit unions are authorized to determine, free from state regulation, the types of disclosures, fees or charges, time for crediting of deposited funds, and all other matters associated with the establishment, maintenance or closing of a share, share draft, or share certificate account.

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Enclosed please find a copy of a letter we wrote to the New York State Banking Department regarding the inapplicability of New York State banking laws to Federal credit unions.

I hope we have been of assistance.

Sincerely,

A handwritten signature in dark ink, appearing to be 'S.R. Bisker'.

STEVEN R. BISKER
Assistant General Counsel

Enclosure



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Mr. Jim Gass
Assistant to Deputy Superintendent
Banking Department
State of New York
Two World Trade Center
New York, NY 10047

Dear Mr. Gass:

This is in reply to your letter dated December 26, 1984, to I.B.M. Interstate Employees Federal Credit Union concerning a complaint against the Credit Union and the applicability of New York's General Regulation of the Banking Board, Part 34, to Federal credit unions (FCU's).

On November 27, 1984, the NCUA Board published a proposal to amend Section 701.35 to clarify its intent when it deregulated FCU share account policies in 1982. See, Vol. 49 Fed. Reg. 46552, November 27, 1984. The NCUA Board intended that the policies regarding fees or charges, time for crediting of deposited funds, and other matters affecting share, share draft or share certificate accounts be determined by an FCU's member-elected board of directors, free from regulatory restrictions by the state or NCUA.

On January 24, 1985, the NCUA Board adopted a final rule. We have enclosed a copy of the rule for your review.

In light of the above, it is the opinion of this Office that FCU's are not subject to New York's General Regulation of the Banking Board, Part 34. To the extent that your



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December 26, 1984, letter requires that the Credit Union investigate the complaint and report its findings to your office, it is our position that you have exceeded your authority.

If you wish to discuss this further, please let me hear from you. I can be reached at (202) 357-1030.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

Enclosures

cc: Mr. Richard Murray