



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 21, 1987

GC/EOR:sg
4600

OFFICE OF GENERAL COUNSEL

James D. Poliquin, Esq.
Norman, Hanson & DeTroy
P.O. Box 4600 DTS
Portland, ME 04112

Dear Mr. Poliquin:

This is in response to your letter of December 22, 1986, which requested a copy of NCUA Bulletin No. 4000 of July 11, 1979, and an NCUA Staff Memo of June 2, 1981, dealing with the subject of credit card programs. You will find each of those documents enclosed.

I am also enclosing a copy of NCUA Letter No. 15 of October 4, 1977, to which reference is made in each of the above documents, for your information since it was the original policy statement. Further, due to changes in the law and deregulation, the issue was again reviewed in 1984, and a copy of our opinion of June 26, 1984, is also enclosed.

I hope these will be of assistance to you.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

Enclosures

EOR:sg

FOIA Vol II E.6.



Memorandum

GC/JLC:dls
FCU #6570
3600
3500
DATE: 6/2/81

FROM : General Counsel

TO : Regional Director
Region IV (Toledo)

SUBJ : Dearborn Federal Credit Union - Charter Number 6570

REF : (a) RD's memo to GC, IV/WAH:dlb, dated May 19, 1981, same subject,
with enclosures

1. By enclosure (2) to reference (a) this FCU requests that NCUA reconsider the position taken in NCUA Letter No. 15 that a Federal credit union may not provide cash advances to a nonmember cardholder participating in a credit card program in which the credit union is also participating. While we agree that there may be good policy reasons for changing this position, we feel that we are precluded from doing so by the fact that the Federal Credit Union Act only authorizes credit unions to make loans to members.

2. The recent change which allows issuance of additional credit cards to certain nonmembers is based on the fact that a member cardholder designates those nonmembers as his or her agents. See NCUA Bulletin No. 4000 (July 11, 1979). Consequently, the loan is in a legal sense being made to the member (principal) rather than the nonmember (agent). At present, we do not feel that a sound legal argument can be articulated which would permit a credit union to make cash advances to nonmember cardholders (who may or may not be in the credit union's field of membership) merely because they are participating in a credit card program in which the credit union is also participating.

3. Consequently, although Section 701.21-3 is being reviewed at this time, no change in this position is under consideration.

JOHN L. OSTBY
General Counsel

/s/

By: TODD OKUN
Assistant General Counsel

NCUA
Bulletin



National
Credit
Union
Administration
Washington, D.C.

No. 4000

Date: July 11, 1979

Subject: Credit Card Activities

To: DISTRIBUTION LIST

1. The policy of the Administration pertaining to issuance of credit cards as stated in NCUA Letter No. 15 (1977) is hereby modified in accordance with the following:

a. A Federal credit union may issue a credit card to its own fully qualified members.

b. A fully qualified member having received approval for a line of credit to be accessed by a credit card, may request that the Federal credit union issue additional credit cards to any other person designated by the member; provided, the request is in writing and the member's line of credit account number appears on the face of the credit card. The issuance of any additional cards to a member or to other persons should be in accordance with specific written policies established by the board of directors.

2. This Bulletin is effective immediately.

A handwritten signature in cursive script, appearing to read 'Lawrence Connell'.

LAWRENCE CONNELL

Distribution: H



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D. C. 20456

October 4, 1977

Office of the Administrator

TO THE BOARD OF DIRECTORS OF THE FEDERAL CREDIT UNION ADDRESSED

RE: Credit Card Activities

On August 4, 1977, final rules authorizing the use of lines of credit by Federal credit unions were published in the Federal Register. These rules address the basic requirements for a Federal credit union to follow when establishing or providing its members with a line of credit regardless of how the credit line is accessed.

Several third party credit card programs (involve the member, credit union and merchant) were submitted for review prior to finalization of the line of credit regulation. From the review of these proposals a policy statement was developed to clarify a number of areas pertaining to credit unions issuing third party credit cards. The following discussion represents the interim policy of the National Credit Union Administration concerning credit card programs and is primarily directed at third party credit card programs. It also applies to programs using plastic cards to access lines of credit at point of sale terminals and automated teller machines. As further experience is gained concerning Federal credit union credit card operations this policy statement will be incorporated into the appropriate Administration publications.

The board of directors of each Federal credit union must determine whether or not a credit card program will be offered to the members. Some of the issues which must be considered in making this decision include:

1. Do the members desire this type of program and will they use it?
2. What are the economic costs of the program and can the credit union afford to provide the service?
3. Will the credit union establish its own program, participate with other credit unions or financial institutions in establishing a program or join an existing program such as the national bank programs (VISA, Master Charge, etc.)?

In addition to these general issues, the board of directors must be familiar with the provisions of Part 701.21-3 of the National Credit Union Administration Rules and Regulations, the provisions of Regulation Z, and the operation of existing credit card systems. With this general background the board of directors will have a point from which to start in making an informed and realistic decision concerning the establishment of a credit card program.

5. Delinquency for line of credit loans will be computed on a contractual basis by comparing the amount of the minimum payment billed to the amount paid by the member prior to the next billing statement. Any portion of a billed minimum payment which is not paid by the next billing period will cause the unpaid balance to be considered delinquent. If payment of a delinquent minimum payment is not received by the third billing date, the unpaid balance will be considered 1 month delinquent. Payments received on delinquent accounts will be applied to eliminate delinquent minimum payments starting with the oldest delinquent payment. In no case will payment in excess of the minimum payment cause the account to be paid ahead or reduce the amount of subsequent required monthly payments.

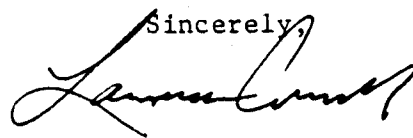
6. FCU Form 118, Schedule of Delinquent Loans will be used to report delinquent account activity for lines of credit. The form should be modified by retitling column (3) to "Approved Credit Limit", column (4) to "Amount of Payments in Arrears", and the identification heading for columns (5) through (8) to "Unpaid Balances of Delinquent Line of Credit Accounts." Four categories of delinquent line of credit balances will be reported in columns (5) through (8) including "1 to less than 2 months", "2 to less than 6 months", "6 to less than 12 months" and "12 months and over." The date of last payment will be reported in column (9). FCU Form 118 will be completed for line of credit loans as of the monthly billing date or at the end of each month. Substitute forms may be used if the information included on modified FCU Form 118 is provided. The statistical information concerning delinquent line of credit balances should be reported separate from the statistical information for other delinquent loans reported on FCU Form 109F, Statistical Report, but should be reported in the same format.

7. It is recommended that Federal credit unions establishing credit card programs limit payment schedules to 5 years in order to assure that sufficient turnover of funds occurs to provide liquidity. Credit limits established should be carefully reviewed to determine each credit union's ability to meet the demands placed upon it by its members.

INTERNAL CONTROLS

Each Federal credit union which issues credit cards must establish sufficient controls to assure improper use of a credit card is quickly detected. It appears that a majority of credit unions planning to implement credit card services for their members will involve themselves with existing credit card programs. Therefore, many of the controls for issuing credit cards are built into the programs. The officials and management of a credit union must be fully aware of how these systems operate. Furthermore, management will need to implement daily audit and review routines to assure the established controls and systems are functioning properly.

Each Federal credit union's board of directors must evaluate the factors involved in establishing and operating credit card services for its members. During examinations of Federal credit unions which implement credit card programs, the affect of credit card operations on the credit union's overall financial condition and management's ability to control the activity will be analysed. This analysis will be used to further refine the Administration's policies concerning credit card activities in Federal credit unions.

Sincerely,


LAWRENCE CONNELL, JR.
Administrator



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

LS/SRB:cch
4600

JUN 26 1984

Stanley P. Spence, Esq.
Corporate Attorney
Tinker Credit Union
P.O. Box 45750
Tinker Air Force Base, OK 73145

Dear Mr. Spence:

This is in response to your letter dated May 29, 1984, concerning a joint (correspondent) credit card program involving your Credit Union and other credit unions (including Federal credit unions). Specifically, you ask "whether Federal credit unions may offer cash advances to nonmember cardholders." You enclosed a May 9, 1984, letter by John Ruffin to the U.S. Employees, O. C. Federal Credit Union wherein he states that "[a] Federal credit union may not provide cash advances to a nonmember cardholder participating in a credit card program in which the credit union is also participating."

The issue of cash advances to nonmember cardholders had originally been addressed by this Agency several years ago. At that time it was concluded that Federal credit unions ("FCU's") could not make cash advances to nonmember cardholders. Based upon that older position Mr. Ruffin made the statement in his letter.

This office recently reviewed this issue in light of changes in the law and deregulation. We have determined that under various types of automatic teller machine or credit card programs it is necessary for FCU's, as part of their participation agreement, to make cash advances. Under these correspondent type arrangements the various participating financial institutions, in effect, act as agents for one another in making cash advances and settle accounts with each other on a preagreed regular basis. We do not view a cash advance to a nonmember as a loan by an FCU since the FCU is acting on behalf of another financial institution who is obligated to immediately repay (settle the account) the FCU for the advance.

In order for FCU's to provide credit card and ATM services to their members it is often necessary to enter into the type of agreements discussed above. In light of this fact, we view the cash advances to nonmembers as an incidental FCU power (section 107 (15) of the FCU Act, 12 U.S.C. §1757(15)) in providing lines of credit (including credit cards) to their members. We have



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discussed this matter with Mr. Ruffin and he is in agreement with our position.

I hope that we have been of assistance.

Sincerely,

A handwritten signature consisting of the letters "R" and "M" followed by a vertical line, representing Robert M. Fenner.

ROBERT M. FENNER
Director, Department of Legal Services

cc: RD, Region V (Austin)