



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/RD:sg
46502

February 1, 1988

Office of General Counsel
Harold M. Carter, Esq.
Harris, Beach, Wilcox, Rubin
and Levey
The Granite Building
130 East Main Street
Rochester, NY 14604

Re: Maximum Interest Rate on Variable Rate Loans
(Your November 11, 1987, Letter)

Dear Mr. Carter:

The issue you present is whether, under Section 701.21(c)(7) of NCUA's Rules and Regulations [12 C.F.R. §701.21(c)(7)], a Federal credit union ("FCU") may charge a contractual rate of interest of up to 21 percent on a variable-rate, closed-end loan made on or before May 14, 1987, if the contractual rate of interest was 18 percent or less on that date. In our view, it may do so.

Variable rate loans are permitted under Section 701.21(c)(7)(i) of NCUA's Rules and Regulations [12 C.F.R. §701.21(c)(7)(i)]:

Variable rates are permitted on the condition that the effective rate over the term of the loan. . . does not exceed the maximum permissible rate.

The "maximum permissible rate" for loans is set forth in Section 701.21(c)(7)(ii) [12 C.F.R. §701.21(c)(7)(ii)]. That provision states:

(ii) Temporary rates -- (A) 21 percent maximum rate. Effective from December 3, 1980 through May 14, 1987, a Federal credit union may extend credit to its members at rates not to exceed 21 percent per year on the unpaid balance inclusive of all finance charges. Loans and line of credit balances existing on or before May 14, 1987, may continue to bear rates of interest of up to 21 percent per year after May 14, 1987.

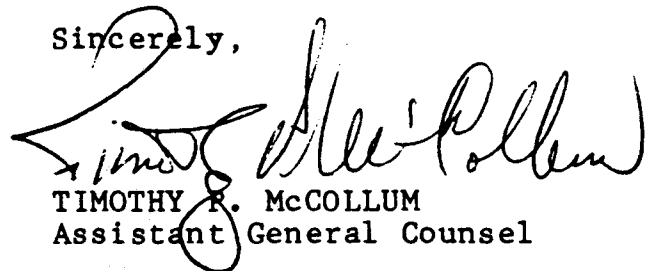
(B) 18 percent maximum rate. Effective May 15, 1987, a Federal credit union may extend credit to its members at rates not to exceed 18 percent per year on the unpaid balance inclusive of all finance charges.

FOIA

Vol. I Part C (i)(c) 21% vs 18% interest limitation

This provision sets up a clear two-tier system based solely on loans' existence as of May 15, 1987. For any loan made on or after May 15, 1987, whether fixed or variable rate, an FCU may charge up to an 18 percent maximum rate. For any loan existing before that date, whether fixed or variable rate, an FCU may "continue" to charge rates "up to" 21 percent. The words "up to" indicate a presumption that the rate may have been less than 21 percent on May 15, 1987. In our view, therefore, the regulation allows an FCU to charge up to a 21 percent rate on a variable rate loan existing prior to May 15, 1987, regardless of the effective rate on May 15, 1987. This interpretation is consistent with the NCUA Board's support of "free lending markets and [of] the ability of Federal credit unions' boards of directors to establish loan rates that reflect current market conditions and to balance the interests of credit union members." 52. Fed. Reg. 8059 (March 16, 1987).

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy R. McCollum", is written over the typed name and title.

TIMOTHY R. MCCOLLUM
Assistant General Counsel

TPM:wpm