



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON DC 20456

May 23, 1990

R. J. Oatley, President
American Airlines Employees FCU
P.O. Box 619001
Dallas-Ft. Worth Airport
Texas 75261-9001

Re: Credit Card Processing

Dear Mr. Oatley:

You have asked whether it is permissible for American Airlines Employees Federal Credit Union ("FCU") to enter into certain contractual arrangements relating to the issuance of credit cards ("bank cards") to FCU members and the processing and settlement of bank card transactions. An FCU may issue bank cards to members and process and settle bank card transactions relating to the bank cards it issues. It may also process and settle bank card transactions on bank cards issued by other institutions where the merchant in the bank card transaction is an FCU member. Since American Airlines ("AA") is not a member of the FCU, the FCU does not have the authority to process bank card transactions on behalf of AA unless the transaction involves a bank card issued by the FCU.

BACKGROUND

This background information is based on information provided by your law firm and an April 4 meeting between you and NCUA representatives.

AA, the FCU's sponsor, is in the business of providing air transportation services. A significant portion of AA's passengers pay for those services with bank cards. AA presently contracts with an unaffiliated third party to provide, on a service bureau basis, the interface into the bank card settlement system administered by VISA and MasterCard. AA has requested the FCU to enter into a contract pursuant to which the FCU would act as the interface or "link" for AA into the bank card settlement system. As the FCU does not presently have the appropriate equipment or personnel to properly discharge its responsibilities under the proposed FCU-AA contract, it will be necessary for the

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FCU to initially contract with a third party, proposed to be Southwestern States Bankcard Association ("SSBA"), to perform certain of the processing and settlement functions required to complete the bank card process.

Under the agreement with AA, the FCU agrees to apply for and maintain membership in certain bank card associations (VISA and MasterCard); however, AA is responsible as the agent of the FCU for the preparation of the bank card association membership applications, all costs and expenses incurred in connection therewith, and all matters associated with the issuance of the bank cards. Additionally, under this agreement, the FCU is required, upon request by AA, to enter into the service agreement with SSBA; however, AA is designated as the FCU's agent for the negotiation of the SSBA agreement and is also responsible for all payments to be made to SSBA. AA is also provided the same control and responsibility over any similar successor service agreement. The FCU does, however, have the option to assume all responsibilities associated with the bank cards after April 1, 1992.

Additionally, under the proposed agreement between the FCU and AA, AA shall receive all benefits and bear all risks associated with the issuance, maintenance and operation of all bank cards bearing the FCU's name. Bank cards with the FCU's name will only be issued to FCU members. All credit card loans will be made by AA, not the FCU. AA agrees to indemnify and hold the FCU harmless from all damages, losses and liabilities associated with the FCU's membership in the bank card associations and the issuance of bank cards bearing the FCU's name. In consideration of the FCU's entering into the agreement with AA and discharging its responsibilities thereunder, AA agrees to pay the FCU certain fees based on the number of bank cards issued and bank card transactions processed.

ANALYSIS

Authority to Accept Bank Card Slips for Deposit and to Process Bank Card Transactions

Section 107(6) of the FCU Act (12 U.S.C. 1757(6)) authorizes an FCU to accept deposits from its members. A merchant may qualify for membership in the FCU. The field of membership is set forth in Section 5 of an FCU's charter. Pursuant to the deposit authority, an FCU can accept bank card sales drafts and credit

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vouchers, or their equivalent, from a merchant for deposit into its share account at the FCU, provided the merchant is a member of the FCU. The incidental powers clause of the FCU Act (Section 107(17) of the FCU Act, 12 U.S.C. 1757(17)) provides an FCU with the authority to act as an agent in the bank card settlement system, provided its settlement system services are limited to services to FCU members. This activity is incidental to the FCU's express authority to accept deposits. As an incidental power to an FCU's authority to issue credit cards to members pursuant to Section 107(5) of the FCU Act (12 U.S.C. 1757(5)), an FCU has the authority to act as an agent in the settlement of bank card transactions on bank cards issued by the FCU.

AA is not a member of the FCU. You are looking into having the FCU's charter amended to include AA. Until AA becomes a member, the FCU has no authority to process bank card slips for AA. The FCU could, pursuant to the incidental powers clause, process bank cards slips on bank cards issued by the FCU.

Assuming AA becomes a member, there is an additional issue. AA's settlement account would be subject to Article XII, Section 1 of the FCU Bylaws which limits loans to nonnatural persons to their shareholdings in the FCU. The settlement account cannot have a liability exceeding AA's share balance at the FCU. In addition, all transactions involving this activity would have to be shown on the credit union's records. Therefore, if for some reason this account did not settle properly, any remaining balance would have to be recognized on the credit union's balance sheet.

Use of FCU's Name

The FCU's name will appear on bank cards issued to FCU members. It must be made clear to FCU members that the credit card loan is not being extended by the FCU but by AA. The FCU is AA's agent and is not extending credit to its members. Additionally, appropriate accounts must be established within the credit union's accounting system to properly recognize the transactions. Further, each member's records would need to be identified accurately concerning the recognition of the advance as an advance of AA and not the credit union.

Credit Union Service Organization ("CUSO") Alternative

You asked whether the FCU would be required to form a CUSO to provide bank card slip processing services to AA. Section 701.27



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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

August 30, 1988

Office of General Counsel

Patricia A. Torkildson, Esq.
Assistant General Counsel
CUNA Service Group, Inc.
Box 431
Madison, WI 53701-0431

Re: Cashing of VISA Travelers Cheques (Your June
20, 1988, letter)

Dear Ms. Torkildson:

You asked if a Federal credit union ("FCU") participating in the VISA U.S.A., Inc. credit card program can accept and cash VISA Travelers Cheques for non-FCU members as required by VISA's Operating Regulations. An FCU, incidental to its power to offer members credit cards, may cash such Cheques as required.

Section 107(5) of the FCU Act [12 U.S.C. §1757(5)] empowers an FCU to "extend lines of credit to its members," including through credit cards. Under this authority, many FCU's offer their members the VISA credit card. According to VISA U.S.A. Operating Regulation 4.5.1, all participating institutions offering VISA cards must "accept and encash all U.S. dollar denominated VISA Travelers Cheques...."

In order to offer members a line of credit through a VISA credit card, then, an FCU must agree to cash VISA Travelers Cheques of nonmembers.

Though an FCU normally cannot provide such a service to nonmembers, Section 107(16) of the FCU Act authorizes an FCU:

"to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated."

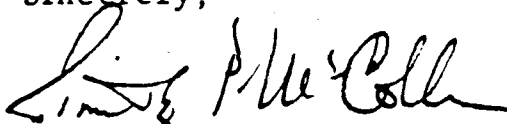
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We believe the VISA requirement to cash nonmember
Traveler's Cheques can permissibly be complied with by
an FCU as incidental to its authority to provide credit
card services to its members.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy P. McCollum".

TIMOTHY P. MCCOLLUM
Assistant General Counsel

HMU:sg