



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 7, 1991

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Civil Rights Division
Barbara Kammerman, Attorney
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P.O. Box 65998
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Re: Equal Credit Opportunity Act (Your October 4,
1990, Letter)

Dear Mr. Dunne and Ms. Kammerman:

You have asked whether the membership and lending policies of Catholic and Community Credit Union of Belleville, Illinois, violate either the Equal Credit Opportunity Act (ECOA) or the Federal Credit Union Act (FCU Act).

Background

Ms. Adrienne Smith indicated to you that she was told by an employee of the credit union that she could not obtain a loan because she was not Catholic and therefore did not qualify for membership in the credit union. You have asked the following questions: 1) does the part of the Equal Credit Opportunity Act (ECOA) which exempts programs "offered by a nonprofit organization for its members or an economically disadvantaged class of persons" (15 U.S.C. §1691(c)(2)), exempt this credit union from coverage; and 2) does the Federal Credit Union Act (FCU Act) or any other federal statute prohibit discrimination on the basis of religion in the membership policies of a credit union?

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Analysis

Initially, we note that the National Credit Union Administration (NCUA) regulates federally chartered credit unions and some aspects of federally insured state chartered credit unions. The Catholic and Community Credit Union is a federally insured state chartered credit union; state law governs membership issues for such institutions. However, we will briefly answer your questions as they pertain to federal credit unions.

Addressing your second question first, Section 109 of the FCU Act (12 U.S.C. §1759) provides that "Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district." As the legislative history of the FCU Act makes clear, membership in a certain church, synagogue, etc., is an appropriate common bond:

A credit union is a cooperative society, organized in accordance with the provisions of a specific credit-union law, carefully supervised, self-managed, limited in each case to the members of a specific group with a common bond of occupation or association (such as the employees of a given industry, farmers in a given district, members of a church parish, employees of the United States Government, groups within a well-defined neighborhood, small community or rural district, etc.), which supplies its members with (1) a simple and convenient system for saving money, which enables the members (2) with their own money and under their own management to take care of their own short-term-credit problems at a normal interest rate.

S. Rep. No. 555, 73d Cong., 2d Sess. 2 (1934) (emphasis added).

Thus, since federal credit unions can only extend membership to individuals within their fields of membership, an associational credit union with a religious-based common bond

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may "discriminate on the basis of religion" in its membership policies. However, community, occupational, and nonreligious associational credit unions may not so discriminate. While we know of no federal statute which explicitly prohibits discrimination on the basis of religion in the membership policies of a credit union, the FCU Act does so implicitly for nonreligious-based federal credit unions. NCUA has determined that under the FCU Act, only groups which possess a recognizable and appropriate common bond may be chartered. See Interpretive Ruling and Policy Statement 89-1--Chartering and Field of Membership Policy (54 Fed. Reg. 31168 (July 27, 1989)). Thus, NCUA would not charter a credit union to a group such as, for example, "Employees of XYZ Corporation, excluding Catholics," since that is neither a recognizable nor appropriate common bond. If, instead, the credit union were chartered with a field of membership of "Employees of XYZ Corporation," it would be required to offer membership to all persons so described.

Addressing your first question concerning the applicability of the ECOA, the FCU Act provides that federal credit unions may make loans only to members, other credit unions, and credit union organizations. 12 U.S.C. §1757(5). Therefore, a credit union with a common bond based on membership in a particular Catholic parish could not make loans to non-Catholics (or, for that matter, to Catholics who are not members of that parish). The ECOA recognizes the restriction in the FCU Act, exempting from ECOA coverage "any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons." 15 U.S.C. §1691(c)(2). Subsection 8(a)(2) of the Federal Reserve Board's Regulation B (12 C.F.R. Part 202) repeats the exemption provided by the ECOA. The preamble to the 1976 revision to that provision establishes that the ECOA does not prohibit credit unions from denying credit to nonmembers:

This category [of exemption] was designed to permit the establishment and operation of three types of credit-granting programs that might otherwise be found to be impermissibly discriminatory. First, this section allows credit unions to refuse to extend credit to nonmembers. . . .

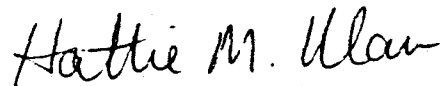
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However, the ECOA does apply to a federal credit union's extension of credit to its membership. See 12 C.F.R. §202.8(b)(2). Thus, within a federal credit union's membership, no person or group of persons may be rejected or discouraged on a prohibited basis.

In addition to various Catholic parishes, the subject credit union's field of membership includes individuals, including non-Catholics, who reside within a defined geographic area. Therefore, if Ms. Smith lived within that area, had joined the credit union, and was denied credit because she was not Catholic, she may have been denied credit illegally. Since this credit union is state chartered, state regulators would determine the membership issue. The Federal Trade Commission has enforcement authority for state chartered credit union compliance with Regulation B. (See Appendix A to Regulation B.)

I hope this is of assistance, and thank you for informing us of this possible violation of the ECOA.

Sincerely,



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Associate General Counsel

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