



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

February 5, 1992

Patricia A. Torkildson
Vice President &
Associate General Counsel
CUNA Service Group, Inc.
Box 431
Madison, Wisconsin 53701-0431

Re: Federal Credit Union ("FCU")
~~Credit Card Issuance~~
(Your Letter of July 31, 1991)

Dear Ms. Torkildson:

On behalf of CUNA Service Group, Inc. ("CSG"), you have requested confirmation that an FCU can issue a national credit card for its own use if transactions initiated with the card are paid when the transactions are presented through the settlement process. On the facts stated in your letter, and under the conditions set forth in this letter, a credit union can issue a national credit card in its own name if transactions initiated with the card are paid when the transactions are presented through the settlement process.

BACKGROUND

You represented that under the CSG credit card program the credit cards issued to credit unions actually function like debit cards.

Under the CSG Card Services Agreement that every credit union on a CSG Card Program must sign, credit unions must settle for their card program transactions each business day. Because credit unions must pay for transactions initiated with their cards as the transactions are presented to them through the settlement process, it is not pos-

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sible for a credit union to extend itself credit. Any items initiated with a card issued by the credit union to itself will be paid when the items are presented for settlement. (This is analogous to the way credit unions settle for share drafts written by the credit unions or their members.)

Here is a somewhat simplified step-by-step explanation of how settlement works for the CSG card program:

1. Credit union makes a purchase from a merchant.
2. Merchant deposits sales draft in its bank.
3. Merchant bank sends item to [national credit card company].
4. [National credit card company] sends the item to the processor used by the credit union which settles the item.
5. Processor bank settles for the item with CSG and CSG settles with the credit union using an automated settlement process. Your Letter of July 31, 1991, p. 1-2.

You also state that some credit unions issue cards for their own use in the names of employees, while others use only the name of the credit union on the card. Regardless of the name on the card, "[t]he credit union will obviously be responsible for all unauthorized use of the accounts and must take steps to protect itself." Your Letter of July 31, 1991, p. 2.

ANALYSIS

Previously, the NCUA has permitted an FCU to issue a credit card to a particular officer or employee and reimburse legitimate FCU business charges to such credit card under the FCU's authority to reimburse officers and employees for legitimate business expenses. The accountability and traceability requirement of issuance to an employee or officer was an attempt to meet safety and soundness concerns, based on

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previous enforcement cases involving employee and officer fraud and unauthorized or illegitimate use of business credit. However, upon further reflection, we believe that these critical safety and soundness concerns can be addressed by other methods which are set forth in this opinion.

Our previous opinion addressed the issue from the standpoint of an FCU extending credit to itself. However, it appears it would have been more appropriate to address this type of payment as the functional equivalent of a debit card or purchase order even though a credit card is the mechanism used.

An FCU has no authority under either the borrowing or lending provisions of the FCU Act to issue a credit card to itself. By definition, an entity cannot make a loan to, or borrow from, itself. However, under an FCU's incidental authority to pay or reimburse for legitimate business expenses, an FCU can issue a credit card to either itself or to a particular officer or employee and pay or reimburse for legitimate FCU business charges through such credit card under the facts presented in your letter of July 31, 1991, as restated in this letter, and the conditions imposed in this letter.

Safety and Soundness

The FCU Act directs that --

every person appointed or elected by any FCU to any position requiring the receipt, payment, or custody of money or other personal property owned by a FCU, or in its custody or control as collateral or otherwise, give bond in a[n approved] corporate surety company.... 12 U.S.C. §1766(h).

By the authority granted in this statutory provision, the Board has adopted Section 701.20 of the NCUA Rules and Regulations. Section 701.20 provides approved forms of blanket bonds and the minimum coverage amounts. 12 C.F.R. §701.20(c-d). It also provides that the board of directors of each FCU shall, at least annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to risk exposure and the regulatory requirements. 12 C.F.R. §701.20(b). It is prudent for FCU boards of directors to obtain a plastic card endorsement on

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their blanket bond. For example, the CUMIS Insurance Society, Inc.'s Insuring Clause L of Credit Union Discovery Bond Number 581 provides coverage:

[f]or direct loss sustained by the Insured [FCU] through debits established against the Insured resulting from the use of any lost or stolen plastic cards issued, or counterfeited plastic cards purporting to have been issued by the Insured and the use of such plastic cards by any unauthorized person (a) in obtaining currency, coin, bank notes, traveler's checks, money orders, drafts or any similar written promise, order or direction to pay a sum certain in money from the Insured on its premises or from any financial institution acting upon authorization received from the Insured, or (b) in the purchase or lease of goods or services....

It is our understanding that a similar plastic card endorsement is also available from Aetna Casualty and Surety Company. In addition, the bonding companies provide advice to insured credit unions regarding loss control and risk management.

Furthermore, we believe that the use of prudent procedures will minimize unauthorized activity on FCU credit cards. For example: FCU credit cards should be used only by authorized individuals; receipts and charges against the account should be monitored consistently and regularly; authorized individuals must be held accountable for their use of the FCU credit card; charges against the FCU credit card account should be cleared and paid when presented for settlement; written policies and procedures should be established for the use of the FCU credit card; end-of-day proof of payments and charges should be made by employees other than authorized users; and training should be provided regarding loss prevention security. Once again, we note the availability of the experience of the bonding companies in assisting FCUs with security procedures regarding credit cards. Furthermore, the appropriate Regional Director can also provide guidance on these procedures. As an additional caution, we note that if 10 or more credit cards are issued to employees, that the \$50 limitation on liability for unauthorized usage may not apply. 15 U.S.C. §1643; 12 C.F.R. §226.12(b)(5).

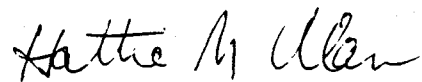
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In conclusion, although no express authority exists for an FCU to provide credit cards to itself, it is possible for an FCU to utilize a credit card either issued in its own name or in the name of an officer or employee of the FCU for legitimate business expenses to be paid for or reimbursed by the FCU under the conditions stated in this opinion.

Sincerely,



Hattie M. Ulan
Associate General Counsel

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