

November 18, 2002

Jeff E. Hampton, AVP – Finance

Operating Engineers Local Union No. 3

6300 Village Parkway

Dublin, CA 94568

Re: Mortgage Loan Policies Favoring a Class of Credit Union Members.

Dear Mr. Hampton:

Your federal credit union's (FCU's) field of membership is limited to members of certain labor unions and their families. You have asked if NCUA regulations permit a mortgage loan policy offering preferential terms to credit union members who are also labor union members. Our view is that such a policy could be permissible if there were a rational basis to support it.

The Federal Credit Union Act authorizes FCU boards of directors to establish criteria for making loans to members. 12 U.S.C. §1757(5)(A). We have previously stated that, although an FCU board has broad authority to set loan policies, there must be a rational basis for distinguishing loan terms for different members on the same type of loan. This is discussed in legal opinion OGC 91-1005, dated November 4, 1991, which is available on the agency web site. In your request to this office, you did not describe the purpose or rationale for providing preferential terms for labor union members. Generally, FCUs should be careful in establishing loan policies offering more favorable loan terms to a class of FCU members where the difference in terms is unrelated to the member's creditworthiness.

In addition to the requirement that a rational basis support your lending policy, your board of directors must also consider the effect of other federal and state laws. In particular, if a policy is found to be facially discriminatory or, if it has the effect of discriminating against a protected group, the FCU risks violating the Federal Reserve Board's Regulation B, 12 C.F.R. Part 202, as well as NCUA regulations concerning non-discrimination in real estate lending. 12 C.F.R. §701.31.

Sincerely,

Sheila A. Albin

Associate General Counsel

OGC/DMS:bhs

SSIC 3500

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