

February 13, 1992

Howard Strong, Esq.  
6923 Geysler Avenue  
Reseda, CA 91335-4031

Re: Discrimination Laws (Your Letter of January 11, 1992)

Dear Mr. Strong:

In a letter to Chairman Roger Jepsen, you requested an opinion regarding laws preventing discrimination by credit unions on the basis of sex, marital status or handicap. Chairman Jepsen requested that the Office of General Counsel respond to your letter. The Equal Credit Opportunity Act ("ECOA") prohibits credit unions from discriminating in lending practices on the basis of sex and marital status, among other protected classes. The Fair Housing Act ("FHA") prohibits credit unions from discriminating in the provision of housing related credit on the basis of sex, familial status or handicap, among other protected classes. The NCUA exercises authority under the ECOA and FHA with regard to federal credit unions ("FCUs") only. Other agencies exercise ECOA and FHA authority with regard to state-chartered credit unions.

#### ANALYSIS

The ECOA (15 U.S.C. ~1691 et seq.) makes it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction:

(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract); (2) because all or a part of the applicant's income derives from any public assistance program; or (3) because the applicant has in good faith exercised any right under [the ECOA]. 15 U.S.C. ~1691(a).

The Board of Governors of the Federal Reserve System ("FRB") has issued implementing regulations for the ECOA commonly known as Regulation B. 12 C.F.R. Part 202. The NCUA has ECOA enforcement authority for federal credit unions ("FCUs"); while the FRB interprets Regulation B. 15 U.S.C. ~1691c(a)(3). The Federal Trade Commission has ECOA enforcement authority for state-chartered credit unions. 15 U.S.C. ~1691c(c).

The Fair Housing Act ("FHA") (42 U.S.C. ~3601 et seq.) makes it unlawful for any person or entity engaged in residential real estate-related transactions to discriminate in either making available the transaction or in the terms and conditions of the transaction on the grounds of race, color, religion, sex, handicap, familial status, or national origin. 42 U.S.C. ~3605(a). In accordance with the FHA and Executive Order No. 12259 (46 Fed.Reg. 1253 (December 31, 1980)), the NCUA promulgated Section 701.31 of its Rules and Regulations, which applies to FCUs. 12 C.F.R. ~701.31. The U.S. Department of Housing and Urban Development has jurisdiction for state-chartered credit unions. 42 U.S.C. ~3608.

Although the NCUA has no jurisdictional or enforcement authority regarding the Americans with Disabilities Act ("ADA") (42 U.S.C. ~12101-213, 47 U.S.C. ~225, 611), it applies to credit unions. The U.S. Department of Justice and the Equal Employment Opportunity Commission are among the agencies with the authority to interpret and enforce the ADA.

You also requested information regarding NCUA's efforts to address "problems of discrimination" in credit unions. NCUA examiners are trained in compliance with the requirements of the ECOA and FHA. When

violations are detected, they are handled as exceptions on the Report of Examination. Examiners also work with credit unions on a continual basis to educate credit unions regarding legal requirements. For more

information regarding examination procedures, you should contact Foster C. Bryan, Regional Director, Region VI, 2300 Clayton Road, Suite 1350, Concord, CA 94520 (ph. 510-825-6125).

Sincerely,

Hattie M. Ulan  
Associate General Counsel

cc: Foster C. Bryan,  
Region VI Director

GC/MEC:sg  
SSIC 3223/3228