

September 21, 1992

Karyle D. Fitzpatrick  
Marketing Manager  
Carlos R. Calderon  
VP of Support Operations  
U.S. Postal Service Federal Credit Union  
7905 Malcolm Rd., 4th Floor  
Clinton, MD 20735-1734

Re: Varying of Interest and Dividend Rates (Your August 6, 1992, Letter)

Dear Ms. Fitzpatrick and Mr. Calderon:

You have asked for our opinion on offering different loan and dividend rates to "select member groups for test market purposes." You are aware of our September 23, 1991, opinion letter stating that a federal credit union (FCU) may not price its services, loan rates, and dividend rates differently depending on the location of the member or the FCU office. You have asked whether this opinion applies to "random test market sampling or specific geographical sampling by state, in order to project program results." You have also asked whether this would be a violation of Regulation B or any other regulation.

Analysis

The reasoning behind our September 23, 1991, opinion prohibiting geographic price differentiation was that there was no rational basis for such activity. Test marketing, however, is a rational basis. Thus, FCUs may offer different loan and dividend rates to members at different locations in order to test market new products. The test should be run only as long as is necessary to gauge the success or failure of a particular combination of rates. Rates should then be made consistent with the FCU's general rates.

We note your proposal to offer different rates "to select member groups." Please be advised that we would only approve of a test market program that offered different rates based on the location of the member. We are not familiar with the field of membership of the U.S. Postal Service FCU, but we would not approve of a test program that distinguished between, for example, employees and family members or employees and retirees.

You should be aware that even a test program based solely on the location of the member might run afoul of Regulation B if it resulted in a negative impact on an individual because of his or her race, color, religion, national origin, sex, marital status, age, receipt of public assistance programs, or good faith exercise of rights under the Consumer Credit Protection Act. For example, if a branch of the FCU in a particular location happened to have mostly retirees as its members, the FCU could not use that branch to test market higher loan rates, as it could have a negative impact on an individual based on age. Thus, care should be taken in selecting the test markets to ensure that Regulation B is not violated.

Finally, the FCU should have its own attorney review the program to determine that no other federal or state laws are violated.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

GC/LH:sg  
SSIC 3600  
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