

February 22, 2000

Steven R. Bisker, Esq.  
119 North Henry Street  
Alexandria, Virginia 22314

Re: Reserving a Rate of Interest, 12 U.S.C. §1757(5)(A)(vii).

Dear Mr. Bisker:

You have asked whether a statement by a federal credit union (FCU) in its variable rate line of credit agreements that the rate will never exceed 21% violates the interest rate ceiling provisions of the Federal Credit Union Act (FCUA). 12 U.S.C. §1757(5)(A)(vii). Our view is that it does not.

The FCUA prohibits FCUs from "the taking, receiving, reserving, or charging of a rate of interest greater than is allowed" by the FCUA or otherwise established by the NCUA Board. 12 U.S.C. §1757(5)(A)(vii). You have asked whether the following language may be deemed to "reserve" a rate of interest greater than allowed by 12 U.S.C. §1757(5)(A):

The corresponding annual percentage rate will never exceed 21% and will never exceed the highest allowable rate for this type of agreement as determined by applicable state or federal law.

The FCUA and its legislative history do not offer a definition of the word "reserve" as used in 12 U.S.C. §1757(5)(A)(vii). Therefore, the plain meaning of the word "reserve" controls. The verb "reserve" means "to keep back, to retain, to keep in store for future or special use, and to retain or hold over to a future time." BLACK'S LAW DICTIONARY 1307 (6th ed. 1990). The language in the FCU's agreements does not indicate that it is retaining or holding back a usurious amount of interest. The provision merely limits the amount of interest the FCU may charge to "the highest allowable rate . . . as determined by applicable state or federal law." As such, the FCU specifically contracts to abide by the law and charge an annual percentage rate no greater than the law allows.

Sincerely,

Sheila A. Albin  
Associate General Counsel

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