

August 14, 2000

William Myers, Manager  
Alternatives Federal Credit Union  
301 West State Street  
Ithaca, New York 14850

Re: Collection of Applicant Data for Grant Reporting Purposes.

Dear Mr. Myers:

You have asked whether a federal credit union (FCU) may collect data regarding the ethnicity, sex, and national origin of certain borrowers as a requirement for receiving various charitable grants. The Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B (Reg. B), permit an FCU to collect this type of information if, as discussed below, it is used for a "special purpose credit program." 15 U.S.C. §1601 *et seq.*; 12 C.F.R §202.8.

Your FCU receives grant monies from the Community Development Financial Institutions Fund (CDFI Fund), local government entities, and private foundations. You are concerned because these grant programs require that you report information about the ethnicity, sex, and national origin of the small business members who benefit from their grants.

Generally, Reg. B prohibits creditors from evaluating the creditworthiness of loan applicants on a "prohibited basis," which is defined to include race, national origin, and sex, and from collecting this information about applicants during a credit transaction. 12 C.F.R. §§202.2(z), 202.5-202.7. Reg. B provides an exception for special purpose credit programs. 12 C.F.R. §202.8. These programs include: credit assistance programs authorized by federal or state law for the benefit of an economically disadvantaged class of persons; programs offered by certain nonprofit organizations; and programs offered by or in which for-profit organizations participate to meet special social needs, subject to particular regulatory criteria. 12 C.F.R. §202.8(a). Also, Reg. B specifically provides that a creditor may retain information otherwise prohibited by Reg. B if it is required to monitor compliance with ECOA, Reg. B, or other federal or state statutes or regulations. 12 C.F.R. §202.12(a)(3).

The CDFI Fund qualifies as a special purpose credit program because it is a credit assistance program expressly authorized by federal law for the benefit of an economically disadvantaged class of persons. 12 U.S.C. §4701; 12 C.F.R. §202.8(a)(1). Moreover, federal law specifically requires the CDFI Fund to require institutions receiving its assistance to "compile such data, as is determined to be appropriate by the Fund, on the gender, race, ethnicity, national origin, or other pertinent information concerning individuals that utilize the services of the assisted institution." 12 U.S.C. §4714 (b).

You provided limited information about the other grants you receive from private and local government entities, therefore, we are not sure if they qualify as special purpose credit programs under Reg. B. You should review these grants to determine if they meet the criteria for a special purpose credit program. 12 C.F.R. §202.8(a).

Sincerely,

Sheila A. Albin  
Associate General Counsel

GC/CJL/SAA:bhs  
SSIC 3228  
00-0417