

March 3, 2010

Glenn D. Solomon, Esq.
Offit Kurman Attorneys at Law
8 Park Center Court, Ste 200
Owings Mill, MD 21117

Re: "Floor" Rates on Home Equity Loans.

Dear Mr. Solomon:

You have asked if it is permissible for a federal credit union (FCU) to add a fixed minimum or "floor" rate to an existing home equity loan. Yes, an FCU may add a floor rate to an existing home equity loan if the original agreement disclosed the possibility of adding the rate and any associated triggering event or the borrower agrees to the addition in writing.

Several FCUs that you represent would like to add a floor rate to existing, variable-rate, home equity loans. Adding the floor rate to most of the loans would increase the overall interest rate. The FCUs intend to obtain each borrower's consent to change the interest rate term of the loans.

Generally, FCUs may not change the terms of a home equity plan after it is opened. Regulation Z specifically prohibits FCUs from changing, by contract or otherwise, the annual percentage rates (APR) on home equity plans, unless the change is based on a publicly available index that is not under the FCU's control. 12 C.F.R. §226.5b(f)(1). In other words, an FCU cannot change the APR on a home equity plan unless the plan has a variable rate. The regulation, however, does not prohibit rate changes that are set forth in a home equity agreement, such as stepped-rate or preferred rate plans. 12 C.F.R. Part 226, Supp. I, §226.5b, para. 5b(f)(1). Additionally, an FCU and a borrower may, by written agreement, change the terms of a home equity plan, but the provisions of the agreement are governed by the limitations in §226.5b(f). 12 C.F.R. §226.5b(f)(3)(iii), Supp. I, para. 5b(f)(3)(iii).

If you have any further questions, please feel free to contact Staff Attorney Tonya Green or me at (703) 518-6540.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel