

NCUA LETTER TO FEDERAL CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314

DATE: August 2014 **LETTER NO:** 14-FCU-03

TO: All Federal Credit Unions

SUBJ: Unfair or Deceptive Credit Practices

ENCL: [Interagency Guidance Regarding Unfair or Deceptive Credit Practices](#)

Dear Board of Directors and Chief Executive Officer:

The National Credit Union Administration (NCUA), along with four other federal regulatory agencies, recently released guidance about the repeal of certain credit practices rules applicable to federal credit unions, banks, and savings associations.¹ The enclosed guidance clarifies that, despite the repeal, the agencies still have supervisory and enforcement authority regarding unfair or deceptive acts or practices, which may include the practices prohibited by the former credit practices rules.²

With respect to federal credit unions, this repeal will affect NCUA's regulations in Part 706 of Title 12 of the Code of Federal Regulations that generally prohibit:

- the use of certain provisions³ in consumer credit contracts,
- the misrepresentation of the nature or extent of cosigner liability, and
- the pyramiding of late fees.

Due to the statutory repeal, the NCUA Board plans to repeal Part 706 at an open meeting later this year. However, **the repeal of NCUA's rules in Part 706 will *not* mean that the credit practices described in those rules are permissible.**

The FTC Act and the Dodd-Frank Act continue to prohibit unfair or deceptive acts or practices.⁴

¹ The guidance was developed jointly by NCUA, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

² The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) repealed the authority of NCUA and certain other federal agencies to issue regulations for federal credit unions, banks, and savings associations that are substantially similar to the Credit Practices Rule of the Federal Trade Commission (FTC).

³ The following provisions are generally prohibited: confession of judgment or a similar waiver of rights in a consumer contract; waiver of limits on attachments of property; assignments of wages (with specified exceptions); and non-possessory security interests in household goods, other than a purchase-money security interest.

If a federal credit union engages in an unfair or deceptive practice described in the soon-to-be repealed credit practices rules, NCUA may determine a statutory violation exists, depending on the facts and circumstances of the particular case.

In addition, NCUA retains enforcement authority to address unsafe and unsound practices by a federal credit union.⁵

I encourage you to ensure your credit union's staff receives training about the attached Interagency Guidance Regarding Unfair or Deceptive Credit Practices.

If you have questions concerning the guidance, please contact the NCUA Office of Consumer Protection at (703) 518-1140 or ComplianceMail@ncua.gov.

Sincerely,

/s/

Debbie Matz
Chairman

Enclosure

⁴ 15 U.S.C. § 45 (unfair or deceptive acts or practices); 12 U.S.C. §§ 5531 and 5536 (unfair, deceptive, or abusive acts or practices).

⁵ 12 C.F.R. § 1786(e).