

March 31, 1994

Verna Lewis
Manager
Tampa Postal District Federal Credit Union
P.O. Box 22407
Tampa, Florida 33622-2407

Re: Loan Application (Your February 14, 1994, Letter)

Dear Mrs. Lewis:

You have asked a series of questions concerning Regulation B requirements ("Equal Credit Opportunity", 12 C.F.R. 202). Your questions are based on the following fact scenario:

A loan officer is interviewing a member about a loan application and in the loan officer's opinion the loan application appears unfavorable (e.g. a high debt to income ratio, an unfavorable credit bureau file, etc.). The loan officer mentions the unfavorable information and the applicant withdraws the application.

QUESTION # 1 - Is the federal credit union obligated to notify the loan applicant that the loan has been turned down?

ANSWER # 1 - Section 202.5(a) of Regulation B provides that:

A creditor shall not make any oral or written statement, in advertising, or otherwise, to applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.

"Prohibited basis" is defined in Section 202.2(z) as:

[r]ace, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the [Federal Reserve] Board.

Assuming in your scenario that the applicant was not discouraged from applying for the loan on a prohibited basis, neither NCUA regulations nor Regulation B require any further communication with the applicant.

QUESTION # 2 - If the credit bureau file was never pulled, but the interview was conducted, is the credit union obligated to notify the applicant that the loan was disapproved?

ANSWER # 2 - As in the last question, assuming that the applicant was not encouraged to withdraw the loan application on a prohibited basis, then no further communication with the applicant is necessary.

QUESTION # 3 - If the loan application was for a mortgage loan, does the credit union have to report the information on the Home Mortgage Disclosure report as a denied loan?

ANSWER # 3 - The Home Mortgage Disclosure Act (HMDA) is implemented by Regulation C (12 C.F.R. 203). If the credit union is subject to HMDA reporting, then according to Appendix A (Section IV, A, 2)

to Regulation C, the federal credit union must report the data for home purchase and home improvement loan applications that did not result in originations, including withdrawn applications.

QUESTION # 4 - If a phone interview is conducted and the application is withdrawn as in question 1 and 2 above, is the federal credit union obligated to notify the applicant that the loan has been denied?

ANSWER # 4 - Assuming the oral application has been properly withdrawn, the answer is the same as in question # 1 and no further communication is necessary.

One additional note. When an application is conveyed by means of telephone and adverse action is taken or the application is not properly withdrawn, the credit union must request the applicant's name and address in order to provide written notification. If the applicant declines to provide that information, then the credit union has no further notification responsibility.

We have coordinated our answers with staff at the Federal Reserve Board. Although they concur with our response, the Federal Reserve Board is not bound by this opinion letter. If you have questions on how to interpret Regulation B, you should contact the Federal Reserve Board.

Sincerely,

Richard S. Schulman
Acting Associate General Counsel

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