

July 14, 2008

Mr. Gary R. Chandler  
RTN Federal Credit Union  
600 Main Street  
Waltham, Massachusetts 02452

Re: Applicability of Certain Massachusetts Law and Mortgage Regulations  
to Federal Credit Unions.

Dear Mr. Chandler:

You have asked whether federal law preempts certain Massachusetts regulations relating to mortgage brokers and mortgage lenders, 940 Mass. Code Regs. 8.01-8.08 (the state regulations). We do not need to undertake a preemption analysis because we conclude the Massachusetts law providing the authority for issuing the regulations makes the state regulations inapplicable to federal credit unions (FCUs).

The purpose and scope sections of the state regulations, 940 Mass. Code Regs. 8.01-.02, indicate the Attorney General of Massachusetts promulgated the regulations under the authority granted in "M.G.L. c 93A §2(c)," which is part of a state law titled the "Regulation of Business Practice and Consumer Protection Act," and often referred to as Chapter 93A. Mass. Gen. Laws ch. 93A, §§1-11. Section 2(c) of Chapter 93A authorizes the Attorney General to promulgate rules and regulations interpreting Section 2(a), which states, in part, that unfair and deceptive acts or practices are "unlawful." *Id.* at §2(a). Under the Attorney General's authority, the state regulations define and prohibit certain types of activities by mortgage brokers and mortgage lenders as unfair or deceptive acts or practices.

By its own terms, Chapter 93A, however, does not apply to FCU lending activities. Chapter 93A states:

Nothing in this chapter shall apply to transactions or actions otherwise permitted under laws as administered by any regulatory board or officer acting under statutory authority of the commonwealth or of the United States.

Mass. Gen. Laws ch. 93A, §3. Federal law, the Federal Credit Union Act, permits FCUs to engage in lending, including mortgage lending, and the National Credit Union Administration (NCUA), a regulatory board, regulates those activities under the authority of the same federal law. 12 U.S.C. 1751 *et seq.* We conclude that, because Chapter 93A does not apply to FCUs, the Attorney General's regulations issued under the authority of Chapter 93A are likewise inapplicable to FCUs.

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FCUs, in addition to being subject to the ample consumer protections in the Federal Credit Union Act and NCUA regulations, are subject to a broad range of other federal laws protecting consumers in mortgage lending transactions, including, for example, the Truth in Lending Act, 15 U.S.C. §§1601 *et seq.*, and the Real Estate Settlement Procedures Act, 12 U.S.C. §§2601 *et seq.* We note NCUA regulations specifically address the accuracy of advertising and other representations, which is the primary focus of the state regulations, and prohibit any insured credit union from making “any advertisement . . . or . . . any representation which is inaccurate or deceptive in any particular, or which in any way misrepresents its services, contracts, or financial condition.” 12 C.F.R. §740.2.

Sincerely,

/S/

Sheila A. Albin  
Associate General Counsel

GC/JMA/SAA:bhs  
08-0120