

September 4, 1991

Janet S. Meyers
President
Jeffco Schools Credit Union
355 Union Boulevard
Lakewood, Colorado 80228

Re: Regulation C (Your May 31, 1991 Letter to Region V)

Dear Ms. Meyers:

The Director of the Division of Insurance in Region V has asked that I direct this legal opinion to your office. You have asked whether Jeffco Schools Credit Union is subject to Regulation C if it enters into an agency agreement to purchase home mortgage loans. Under the facts we were presented, Jeffco Schools Credit Union must report under Regulation C unless it has neither a home office nor a branch office in an MSA or if the credit union has less than 10 million in assets.

BACKGROUND

Jeffco Schools Credit Union (CU) is currently in the process of entering into an agency agreement with a local mortgage company, to allow the mortgage company to originate, process and close FHA, VA and conventional residential mortgage loans to the CU's members. Under the agency agreement the CU agrees to provide the funds to close each mortgage loan. The CU then warehouses the loans and eventually sells the loans to the secondary market. Furthermore, the CU retains an origination fee in the amount of one-half of one percent (.50) on each loan. The CU currently makes home improvement loans but is not currently subject to Regulation C (12 C.F.R. 203) because it does not grant home purchase loans.

ANALYSIS

Section 203.1(c) of Regulation C requires a credit union to:

... report data to its supervisory agency about home purchases and home improvement loans it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

A credit union that originates or purchases a home purchase loan secured by a first lien on a one-to-four family dwelling in the preceding year is subject to Regulation C under Section 203.2(e)(1) if:

(i) the institution is federally-insured or -regulated; (ii) the loan is insured, guaranteed, or supplemented by any Federal agency; or (iii) the institution intended to sell the loan to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation.

A credit union meeting the above definitional requirements may still be exempt from Regulation C if the credit union has neither a home office nor a branch office in an MSA or if the credit union has less than 10 million in assets (12 C.F.R. 203.3(a)).

Since, the CU is purchasing home purchase loans from the mortgage company it is subject to Regulation C unless otherwise exempt. There is no exemption for a CU that is only temporarily warehousing the mortgages before selling the

loans to the secondary market. Furthermore, the mortgage company as the loan originator will also have to comply with Regulation C.

Sincerely,

James J. Engel
Deputy General Counsel

GC/MM:sg
SSIC
91-0816

cc: Gene Jackson, Director
Division of Insurance
Region V