

January 29, 1996

Marilu Floriano, Assistant Manager  
Iron Mountain - Kingsford Community Federal Credit Union  
P.O. Box 2247  
Kingsford, Michigan 49801

Re: Preemption of State Law (Your December 7, 1995, Letter)

Dear Ms. Floriano:

You have asked whether certain provisions of Wisconsin law apply to a Michigan federal credit union (FCU) doing business in Wisconsin. These provisions concern the following: 1) a one year notice requirement for any change in terms and conditions of an open-end credit plan; 2) advertising restrictions under the Wisconsin Consumer Protection Act; and 3) collection remedies under the Wisconsin Consumer Protection Act.

### **ANALYSIS**

Section 701.21(b)(1) of NCUA's Regulations provides that federal law preempts any state law purporting "to regulate the rates, terms of repayment and other conditions of Federal credit union loans and lines of credit . . . to members." This section preempts the Wisconsin notice requirement but not the state law regarding collection requirements. You may wish to contact local counsel in regard to state collection requirements as well as the Fair Debt Collection Practices Act.

NCUA's advertising regulation stresses accuracy, the use of NCUA official signage, and the use of the term "Federally insured by NCUA" in official advertising. Part 740 of NCUA Regulations. There is a general purpose within the regulation "that all other kinds of advertisements must be accurate." 12 C.F.R. §740.0. With the exception of the display and use of NCUA signage, NCUA's advertising regulations are not comprehensive nor were they intended to preempt state laws that are not inconsistent. You have not indicated the specific portions of Wisconsin law that you believe may be preempted by NCUA Regulations. If, as we suspect, Wisconsin is regulating an area of advertising which is not specifically addressed in NCUA's Regulation, such as soliciting loans, your credit union would be required to follow the state law. To be sure whether your credit union must follow Wisconsin law or Michigan law, we recommend that you seek the advice of private counsel.

Sincerely,

Richard S. Schulman  
Associate General Counsel

CG/MJMcK/RSS:bhs  
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