



The Commonwealth of Massachusetts

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February 2, 2005

Mr. Daniel F. Egan, Jr.
Massachusetts Credit Union League, Inc.
845 Donald Lynch Boulevard
Marlborough, Massachusetts 01752-4704

Dear Mr. Egan:

This letter is in response to numerous inquiries by state-chartered credit union members of the Massachusetts Credit Union League, Inc. (the "League") on a particular provision of the Division of Banks' (the "Division") regulations on Parity With Federal Credit Unions promulgated as 209 CMR 50.00 *et seq.* (the "Regulation" or the "Parity Regulation"). The issue is initially raised in the Regulation at 209 CMR 50.06(3)(f) governing the direct or indirect financing of up to 100% of a motor vehicle sales transaction. The specific question raised is which fees, expenses or services can be included in the financing of an automobile sales transaction based, as provided in the Regulation, on "up to 100% of the value of the collateral." The 2004 amendments to the Regulation used this same language in three notice authorities which were added at that time.

This matter has been raised to the Division over an extended period of time. It was the subject of discussion during the Division's Focus Group meetings in the fall of 2003. It was also brought up during the Division's presentation at the League sponsored seminar on amendments to the Parity Regulation on September 30, 2004. The Division recently received additional information that the definition of "collateral" was still a concern. This letter is intended to resolve this issue.

The Division has sought to address the issue in various approval letters to credit unions that sought automobile financing authority under the Regulation. Initially, the Division would review an application and determine if certain specified fees could be included as part of the collateral. Subsequently, in those approval letters, the Division established that collateral value would mean the Manufacturer's Suggested Retail Price ("MSRP"). The Division believed that the likely spread between a sales price and the MSRP would be sufficient to cover other fees and services such as extended warranties, credit insurance, debt cancellation contracts, and other charges related to the total transaction.

This letter to the League, which will also be posted on our website, establishes the Division's revised position on this matter. The Regulation at 209 CMR 50.06(3)(f) refers, as



noted above, only to "the value of the collateral." As reflected in prior approval letters, the Division has the authority to opine on or define collateral for the purpose of complying with the Regulation. Accordingly, this letter establishes the acceptable standard for determining the value of the collateral under the Regulation. It is applicable to direct and indirect financing of both new and used automobiles.

This standard is also applicable to the notice authority for direct and indirect automobile financing set out in 209 CMR 50.14(3)(b) and (c), respectively, for credit unions that had previously received parity authority as well as for the notice authority for direct automobile financing set out in 209 CMR 50.15(3)(b) for credit unions that had not previously received parity authority. However, for each of those notice authorities, a credit union may not exceed the dollar limitation set out in the applicable provision of the Regulation.

It is the position of the Division that compliance with the provisions of 209 CMR 50.06(3)(f) will be met if an automobile loan is underwritten consistent with safe and sound banking practice. The Division recognizes that this standard may result in some loans exceeding the MSRP depending on whether add-ons, additional services or fees are financed as part of the total transaction. In extending the standard beyond MSRP, the Division is aware that other regulated entities, including federal credit unions, are governed by the test of whether the loan is within safety and soundness limits.

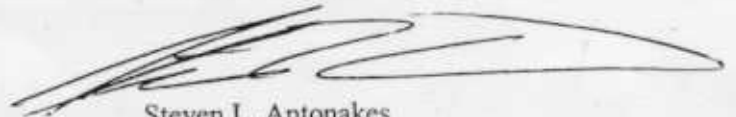
In reviewing this matter, the Division concluded that establishing this standard was preferable to setting out a list of acceptable services or fees that could be included as collateral or setting a percentage rate above MSRP that would be in compliance with the Regulation. As with other provisions of the Parity Regulation, this method allows each credit union active in automobile financing to establish a loan policy that reflects its plan of business consistent with principles of safety and soundness. The adequacy of such a policy and adherence to it will be determined, as in most matters, by examination personnel of the Division during regularly scheduled examinations.

Examiners will also determine whether a credit union has established an acceptable level of review for loans that exceed MSRP. Such review standards are particularly necessary for indirect loans which exceed MSRP. Additionally, examiners will be aware to determine if any pattern or practice of loans exceeding MSRP develops in any particular geographic area of the Commonwealth.

This letter states the position of the Division. It negates any limitation to specified fees or services as well as any limitation to MSRP set out in prior approval letters.

The Division would appreciate the League making its membership aware of this letter.

Very truly yours,



Steven L. Antonakes
Commissioner of Banks