

Arizona Credit Card Reporting Requirements

Summary Conclusion: Federal law preempts application of state credit card reporting requirements to federal savings associations. The types of state laws preempted for federal savings associations include laws purporting to impose requirements regarding filings or reports by creditors and disclosure and advertising.

Date: March 21, 2002

Subjects: Home Owners' Loan Act/Savings Association Powers

P-2002-3



Office of Thrift Supervision

Department of the Treasury

Chief Counsel

1700 G Street, N.W., Washington, DC 20552 • (202) 906-6251

March 21, 2002

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Re: Arizona Credit Card Reporting Requirements

Dear []:

Thank you for your letter on behalf of [] ("Association"), a federal savings association. In your letter, you ask the Office of Thrift Supervision ("OTS") to issue a legal opinion on whether a federal savings association must comply with an Arizona law requiring financial institutions to file reports about their credit card operations. In sum, we conclude that federal savings associations are not required to comply with the Arizona credit card reporting requirements.

The state law in issue is Arizona Revised Statutes § 6-140. Section 6-140.A. requires all financial institutions that issue "revolving loan accounts resulting from credit card accounts" to persons residing in the state to report to the Superintendent of Banks the financial institution's current interest rate and related information for each type of credit card it offers.¹ Section 6-140.B. requires financial institutions to report changes to such information within 30 days. Section 6-140.C. provides that the Superintendent will compile a quarterly report on the interest rates of each institution, distribute the report as he deems appropriate, and make the report publicly available. Section 6-140.D. clarifies that § 6-140 applies not only to state-chartered institutions, but also to federal savings associations and other types of federally-chartered institutions, if they have a home office or branch in the state.

Other information you provided with your inquiry indicates that the Superintendent prescribes a "Credit Card Information" form that each financial institution must complete and submit for each type of credit card it offers. The form further requires the institution to attach the institution's credit card brochure showing the terms and conditions.

¹ The specific information required is: (1) interest rate for the credit card as an annual percentage rate as defined in the Truth-in-Lending Act, disclosing rates separately if they vary by outstanding balance; (2) annual fees; (3) late payment or delinquency charges; (4) grace period; (5) minimum monthly payment; (6) amount or method of determining any other charge permitted under a separate provision of Arizona law (e.g., a transaction charge for each separate purchase, an overlimit charge); and (7) any inducement the financial institution offers to a holder of, or applicant for, its credit card. Ariz. Rev. Stat. § 6-140.A.

The information you submitted to us indicates that during the period June 2001 to December 2001, the Association received three notices from the Arizona Banking Department requiring compliance with § 6-140. The Association also received a letter dated October 4, 2001, from the Arizona Attorney General's office reaffirming that position.²

Federal law preempts application of these Arizona credit card reporting requirements to federal savings associations. OTS regulations promulgated under the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1461 *et seq.*, specifically provide that the types of state laws preempted for federal savings associations "include, without limitation, state laws purporting to impose requirements regarding . . . (1) *filings[] or reports by creditors . . . [and] (9) disclosure and advertising[.]*" 12 C.F.R. § 560.2(b) (2001) (emphases added).

Moreover, OTS, and its predecessor agency, the Federal Home Loan Bank Board ("FHLBB"), have opined repeatedly that state reporting requirements on the operations of financial institutions are preempted for federal savings associations. See, e.g., OTS Mem. Chief Counsel, December 22, 1998 (reports on electronic branches including fee schedules); OTS Op. Chief Counsel, July 1, 1998 (reports on ATMs including fee schedules); OTS Op. Chief Counsel, January 18, 1996 (financial and other reports); OTS Mem. Deputy Chief Counsel, May 10, 1995 (financial and other reports); and FHLBB Mem. Acting General Counsel, October 29, 1976 (examination reports).

Finally, the reporting requirements appear to be attempts by the State to monitor and examine federal savings associations. Such attempts are impermissible because only OTS has such authority.³ Subject to rare exceptions not applicable here, states have no authority to monitor, examine, or inquire into the operations of federal savings associations.⁴

We trust this is responsive to your inquiry. If you have further questions, please contact Richard Bennett, Counsel (Banking and Finance), at (202) 906-7409.

Sincerely,



Carolyn J. Buck
Chief Counsel

cc: Craig Raby, Assistant Attorney General
Consumer Protection & Advocacy Section
State of Arizona Office of the Attorney General
OTS Regional Directors
OTS Regional Counsel

² In an unsuccessful attempt to resolve this matter, OTS staff sent the Arizona Attorney General's office copies of relevant OTS regulations and prior opinions and explained OTS's view of applicable federal law and regulations.

³ Under HOLA §§ 4(a) and 5(a), OTS possesses exclusive and plenary authority to provide for the examination, operation, and regulation of federal savings associations. 12 U.S.C.A. §§ 1464 and 1464(a) (West 2001).

⁴ See OTS Ops. Chief Counsel, July 1, 1998, at 11 and n. 39 and January 18, 1996, at 2-3 (and authorities cited in each).