

BUREAU OF FINANCIAL INSTITUTIONS
Department of Professional and Financial Regulation
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National Credit Union Administration Letter to Federal Credit Unions 10-FCU-02 ^[1] Regarding Multi-Featured Open-End Lending (MFOEL)

The National Credit Union Administration (NCUA) issued Letter to Federal Credit Unions 10-FCU-02 on September 17, 2010. Letter 10-FCU-02 clarifies changes to Federal Reserve Regulation Z with respect to the definition of open-end lending contained in the Official Staff Interpretations (OSI) to 12 C.F.R. Section 226.2(a)(20), which became effective July 1, 2010. ^[2] Specifically, Letter 10-FCU-02 identifies best practices for federal credit unions conducting MFOEL, most commonly using CUNA Mutual Group's LoanLiner program, given the changes to the definition of open-end lending.

Most notably, Letter 10-FCU-02 indicates credit unions may occasionally or routinely verify a member's creditworthiness, but may not underwrite individual advances under an open-end plan. Credit unions may pull credit reports if done on a routine or periodic basis for the entire MFOEL portfolio, but generally may not pull credit reports for individual advances as this is considered underwriting.

Letter 10-FCU-02 also indicates that credit unions should use closed-end lending practices and disclosures when it is appropriate to perform underwriting at the time of an advance request. Ultimately, the decision whether or not to continue to conduct MFOEL and to what extent may depend upon an individual credit union's membership base, the source of loans (direct or indirect lending), risk tolerance, and other applicable factors.

All state-chartered credit unions currently conducting MFOEL should re-evaluate their policies and procedures in accordance with the guidance in Letter 10-FCU-02, and change their MFOEL policies and procedures to conform to Letter 10-FCU-02 on or before November 1, 2010. If, as a result of this review, the credit union decides to terminate its MFOEL program in favor of a closed-end lending program, but is unable to effect the transition on or before November 1, 2010, please contact Deputy Superintendent Donald W. Groves at 624-8577 about an extension.

/s/ Lloyd P. LaFountain III
Superintendent

[1] Letter 10-FCU-02 may be found on the National Credit Union Administration Website at <http://www.ncua.gov/Resources/LettersCreditUnion2010.aspx>.

[2] These changes became effective for state-chartered institutions on August 1, 2010 in accordance with Regulation Z-2 (BFI Rule 38), the joint rule of the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection implementing Maine's Truth in Lending Act.

Note: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Financial Institutions if additional information is needed.