



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

September 17, 2018

*Via E-mail*

Mr. Michael J. Ciriello  
President and Chief Executive Officer  
Hudson Heritage Federal Credit Union  
25 Rykowski Lane  
Middletown, NY 10941

Re: Gap Waiver Confirmation

Dear Mr. Ciriello:

The New York State Department of Financial Services (the “Department”) has been in communications with members of your staff and the New York Credit Union Association (the “Association”) regarding the permissibility of certain charges by Hudson Heritage Federal Credit Union (“HHFCU”) pursuant to its Guaranteed Auto Protection waiver (“Gap waiver”) program.

The Department understands in this regard that HHFCU purchases gap insurance to offset the risk associated with Gap waivers, i.e., the difference between the recovery on the vehicle and the value of indebtedness, by the potential loss or destruction of the vehicle serving as collateral for an extension of credit by HHFCU. The Department understands that a charge is imposed by HHFCU for this protection and that this charge may exceed the cost of the gap insurance.

The Department has been informed by Henry Meier, General Counsel of the Association, that HHFCU only makes loans to its members to finance the purchase of automobiles, although an unrelated automobile dealer will generally take the original loan application on behalf of HHFCU. This is in contrast to the assumption by HHFCU of a retail installment contract originated by a retail automobile dealer. Mr. Meier has further advised the Department that the gap waiver charges described above are only imposed on lending transactions between HHFCU and its members. Please be advised that this direct lending program is not objectionable to the Department.

As you may be aware, the New York State Insurance Department - a predecessor agency to the Department - advised in 2004 that it would defer to the New York State Banking Department - also a predecessor agency to the Department - the regulation of such Gap waiver contracts. The Banking Department viewed the pricing of Gap waivers as incidental to lending activities of financial institutions and, therefore, the pricing of such products is not generally subject to regulation. The Department continues to hold this position.

Moreover, the Department would not object to the gap waiver program currently engaged in by HHFCU and described above if such activities were to be conducted in the future by a successor institution under a New York State charter.

We trust that this letter will resolve any questions that you might have regarding this matter. However, should you have any further questions, please do not hesitate to contact the Department.

Very truly yours,



Gene C. Brooks  
Assistant Counsel

cc: Mr. William Mellin  
Henry Meier, Esq.  
Michael Lieberman, Esq.  
New York Credit Union Association