

October 27, 1993

William J. Rissel
President/ CEO
Fort Knox Federal Credit Union
P.O. Box 1000
Fort Knox, KY 40121-1000

Re: Share Draft Copy Fees (Your Letter of September 28, 1993)

Dear Mr. Rissel:

You wrote to direct staff's attention to an item in the NCUA's Part 707 (12 C.F.R. Part 707) that is not "substantially similar" to the Federal Reserve Board's ("FRB") Regulation DD, 12 C.F.R. Part 230, as is required by the Truth In Savings Act, 12 U.S.C. § 4311(b). Upon closer review, staff agrees with you that the FRB does not consider "fees for copies of checks", but does consider proprietary automated teller machine ("ATM") fees, as account maintenance and activity fees for purposes of advertising. FRB Final Rule, 57 Fed. Reg. 43337, 43367 (September 21, 1992). The pertinent section reads:

Under the final rule, institutions are not permitted to refer to or describe any account as "free" or "no cost" (or contain a similar term) if any "maintenance or activity" fee might be imposed on the account. In response to commenters who pointed out that the act limits the prohibition to "regular" transaction or service fees, the final rule limits the scope of a maintenance or activity fee to such charges as, for example, periodic service charges and fees imposed to deposit, withdraw or transfer fees (including per check charges and fees to use the institution's ATMs). A maintenance fee also includes fees imposed if a minimum balance requirement is not met or if a transaction limit is exceeded. A maintenance or activity fee does not include fees imposed by a third party to print checks for an account; stop payment fees; fees for copies of checks; fees for checks returned for insufficient funds; or fees unrelated to the account such as a fee for purchasing a cashier's check or traveler's checks. Id.

The equivalent discussion in Part 707 contains no similar reference regarding either share draft copy fees or proprietary ATM fees. 58 Fed. Reg. 50394, 50435 (September 27, 1993). Staff intends to bring this discrepancy to the Board's attention. If the Board permits, staff will include this in the technical corrections to Part 707, to be issued in the near future. Thank you for bringing this issue to our attention.

Sincerely,

Hattie M. Ulan
Associate General Counsel

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