

December 28, 2000

Gary Preszler, Commissioner  
Department of Banking and Financial Institutions  
2000 Schafer Street, Suite G  
Bismark, ND 58501-1204

Re: Proposed Legislation Requiring a Federal Corporate Credit Union to Produce Information to the State Regulator.

Dear Mr. Preszler:

The Office of Corporate Credit Unions has asked this office to respond to your recent inquiry regarding the permissibility of proposed legislation that would require a federal corporate credit union to produce its records or provide access to them to the North Dakota Banking Commissioner. Our view is that the broad access the proposed legislation grants would be unenforceable.

Federal credit unions (FCUs), including federally chartered corporate credit unions, are only subject to supervision and examination of their books and records by the National Credit Union Administration Board. 12 U.S.C. §1756. There is no statutory authority or precedent to permit a state agency unlimited access to an FCU's records. The proposal leaves to the commissioner the determination of whether access to or production of records is "necessary" in connection with the examination of a state-chartered credit union. There is no requirement that the information be unavailable from other sources directly under your jurisdiction. Requiring an FCU to allow access to any records is tantamount to allowing state examiners to examine an FCU's records.

Your stated goal in seeking access to a federal corporate credit union's records is to trace transactions of state-chartered credit unions that you supervise. We have no objection to a federally-chartered corporate voluntarily releasing information or records about a member's transactions if the member consents. We suggest that you can accomplish your goal by requiring state-chartered credit unions to consent to release of this information by the federal corporate credit union.

Additionally, pursuant to the Office of Corporate Credit Union's long-standing policy, state examiners may participate in examinations of federal corporate credit unions located in their state to determine the safety and soundness of the corporate accepting deposits from the credit unions they regulate. Finally, a state supervisor may request a copy of the examination report for a federal corporate located within its state if the state did not participate on the examination. To implement these arrangements, we require an executed confidentiality agreement.

Sincerely,

Sheila A. Albin  
Associate General Counsel

GC/MFR:bhs  
SSIC 30000 / 00-1223

cc: Robert F. Schafer, Dir. OCCU