

GC/MRS:sg

SSIC 6100

93-0922

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FROM: Hattie M. Ulan, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendment []

(Your September 13, 1993, Memorandum)

DATE: October 8, 1993

You requested our comments on a nonstandard bylaw amendment submitted by []. The proposal would amend Article III, Section 4, which permits the FCU's board to set fees for transfers from one member's account to another member's account. The amendment would establish different fees for different types of transfers.

The FCU expects that its automated response unit will shortly be modified so that it is possible for a member to transfer funds to another member by means of the automated response unit. The proposed amendment establishes a \$10.00 fee for each manual transfer, and \$5.00 for each automated transfer. The stated purpose for the amendment is to encourage members to use the automated response unit, thereby increasing efficiency and reducing the FCU's costs.

We have no legal objection to the proposed amendment. As you know, under Section 701.35(c) of the Regulations, an FCU's authority to set fees is limited only by the FCU Act and the Regulations, other federal law, and its contractual obligations. Neither the FCU Act nor the Regulations precludes an FCU from imposing the fees described, and we know of no other federal law that would limit such fees. You may wish to suggest that the FCU consult its own attorney with regard to the possible effect of its member contracts on the establishment of the fees in question. Finally, we wish to point out that once the new truth in savings regulation becomes effective (January 1, 1995), fees such as these will have to be disclosed to members in their account disclosures, rather than simply set out in the FCU's bylaws.