

April 22, 1996
James F. Maher, Esq.
108 East Fourth St.
New Castle, DE 19720

Re: Confidentiality Bylaw (Your Letter of March 22, 1996)

Dear Mr. Maher:

Your client, a federal credit union (FCU) located in Delaware, contracted with a third party company to market financial services and products, such as mutual funds, to its members. The FCU provided a company representative with information regarding members who had maturing share certificates. The representative contacted these members to inform them of alternative investment opportunities. One member objected to the FCU's sharing of his personal financial information with a party outside the credit union. The member complained to the FCU and to the applicable NCUA Regional Office.

In a letter dated January 8, 1996, the Regional Office stated that FCU's release of specific information about members' accounts violated Article XIX, Section 2, of the standard Federal Credit Union Bylaws. That provision states that the officials and employees of an FCU must hold in confidence all transactions of the FCU with its members and all information regarding their personal affairs, except in connection with the making and collecting of loans and the guaranteeing of member share drafts by third parties. You have asked for our opinion on this issue.

Analysis

The intent of Article XIX, Section 2, was to prevent arbitrary or wholesale disclosure of member transactions. The exceptions concerning the making and collecting of loans and the guaranteeing of share drafts were deemed necessary to permit FCUs to carry out the basic functions of lending and providing share services. In our view, the marketing of non deposit financial services and products is not a basic FCU function. Since the disclosure did involve member transactions and was not necessary to the FCU's basic activities, we believe that it violated the intent of the bylaw.

The foregoing, however, merely represents NCUA's interpretation of the bylaw. NCUA has long maintained that the bylaws function as a contract between an FCU and its members and that they should be interpreted according to state law. Delaware law would determine whether the FCU violated its promise of confidentiality to its members by releasing the information at issue. NCUA will not at this time become involved in this dispute.

Sincerely,

Richard S. Schulman
Associate General Counsel

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96-0343