

December 16, 1997

Charles P. Bowles, Chairman
EasCorp
300 Unicorn Park Drive
P.O. Box 2366
Woburn, MA 01888-2366

Re: Protection of Confidential Information
Your letter dated October 10, 1997

Dear Mr. Bowles:

This is in response to your letter in which you asked about the general rules protecting confidential trade documents produced by credit unions to NCUA in the course of an examination. You also asked that we explain the process used by the Office of Corporate Credit Unions to protect and safeguard the documents and proprietary information of corporate credit unions.

There are several laws and regulations which combine to offer substantial protection for confidential information obtained from credit unions during an examination. NCUA's regulations prohibit the unauthorized disclosure, by both NCUA and credit union employees, of records which are exempt from disclosure under the Freedom of Information Act (FOIA). 12 C.F.R. §792.4. As you may be aware, information contained in, or related to, a report of examination falls squarely within the application of an exemption to FOIA. 5 U.S.C. 552(b)(8). Records which contain trade secrets, or commercial or financial information which is privileged or confidential, are also protected from disclosure by an exemption to FOIA. 5 U.S.C. 552(b)(4). Furthermore, the Trade Secrets Act establishes criminal penalties for any federal employee who makes an unauthorized disclosure of information such as trade secrets, confidential statistical data, or financial information obtained in the course of federal employment. 18 U.S.C. §1905.

Finally, all records provided by corporate credit unions to NCUA examiners are in the legal custody and control of NCUA. Records obtained by corporate credit union examiners to conduct an examination are agency records, notwithstanding the location where they may be maintained. Examiners may not retain possession of such materials beyond the time frame in which they are relevant to their assignments. Upon resignation or termination, examiners must return all agency records to NCUA.

I hope you find the above information to be helpful.

Sincerely,

Sheila A. Albin
Associate General Counsel

OGC/DMS:bhs
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