

April 21, 1998

James R. Brown, III, Esquire
8501 LaSalle Road
Baltimore, Maryland 21286-5980

Re: Preemption of State Law
Your letter dated March 13, 1998

Dear Mr. Brown:

You have asked whether the Federal Credit Union Act would preempt a proposed state law that limits the fees a federal credit union (FCU) may charge nonmembers for use of ATMs owned by the FCU. As explained below, the answer is no.

In your letter, you state that a bill has been introduced in the Maryland legislature that would prohibit "all financial institutions from assessing a surcharge against an individual who conducts a transaction at an automated teller machine (ATM), if the transaction does not relate to or affect the account held by the individual with the financial institution." This bill, if passed, would prohibit an FCU from charging a fee to nonmembers for use of its ATM.

The attached letter from Sheila Albin to Peter Liska, dated June 6, 1997, states that since NCUA does not regulate in the area of electronic branching, FCUs are subject to state law unless the law precludes them from serving their members effectively. The proposed legislation affects the ability of an FCU to collect fees from nonmembers but has no effect on the ability of an FCU to serve its members. We see no basis for federal preemption.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/MFR:bhs
SSIC 3600
98-0329

Enclosure