

October 21, 1999

Kelly L. Payne, Assistant General Counsel  
Funds Express Financial Network  
11950 Jollyville Road  
Austin, Texas 78759-2309

Re: Electronic Disclosures Under the Truth In Savings Act.

Dear Mr. Payne:

You have asked whether credit unions may deliver statements, notices, and disclosures electronically under the Truth In Savings Act (TISA). 12 U.S.C. §§4301-13. If the member consents, TISA disclosures on periodic statements of account activity may be made electronically. Also, if the member consents and the disclosures are mandated both by TISA and the Electronic Funds Transfer Act, 15 U.S.C. §1601 et seq., they may be made electronically. At this time, TISA does not authorize electronic delivery for any other disclosures.

TISA does not address permissible means of delivery, and the Board of Governors of the Federal Reserve System (the Federal Reserve) implementing regulation, Regulation DD, has been silent on the issue of electronic disclosure. 12 C.F.R. §230.3(a). The Federal Reserve has interpreted Regulation DD to require TISA disclosures to be delivered in paper form, 63 Fed. Reg. 14,533 (1998); however, it recently promulgated an interim final rule authorizing electronic TISA disclosures for periodic statements of account activity if the consumer consents. 63 Fed. Reg. 49,846 (1999).

TISA requires the National Credit Union Administration (NCUA) to promulgate regulations that are "substantially similar" to the Federal Reserve, "taking into account the unique nature of credit unions." 12 U.S.C. §4311(b). On this subject, our TISA regulation has been identical to the Regulation DD disclosure provision. 12 C.F.R. §707.4(a); 12 C.F.R. §230.3(a). Since there is no particular issue here unique to credit unions, we will defer to the Federal Reserve's interpretation that existing regulations generally do not authorize electronic disclosures. Thus, with the exception of corporate credit unions and certain small credit unions that are exempt from TISA, all credit unions must deliver their TISA disclosures in paper format.

We anticipate that the NCUA Board will issue an interim final rule soon that is substantially similar to the Federal Reserve's recent interim final permitting electronic disclosures for periodic statements. Credit unions may follow the recent Federal Reserve interim rule on the subject pending publication of our rule covering electronic disclosures for periodic statements of account activity.

The Federal Reserve recently issued a modified proposed rule regarding electronic delivery for all Regulation DD disclosures. 63 Fed. Reg. 49,740 (1999). If the Federal Reserve publishes a final

rule further amending the provisions regarding electronic delivery for TISA disclosures, the NCUA will amend its rules accordingly.

You also referenced the Federal Reserve's Regulation E, which implements the Electronic Funds Transfer Act. Disclosures mandated under Regulation E may be substituted for TISA disclosures. 12 C.F.R. §704.7(c). Since Regulation E allows for electronic disclosure with consumer consent, any disclosure that is covered by both Regulation E and DD may be sent electronically in accordance with Reg E. 12 C.F.R. §205.4(c)(2).

Sincerely,

Sheila A. Albin  
Associate General Counsel

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