

August 2, 2000

Nicholas Vincent Campasano, Esq.  
2000 Deer Park Avenue, Suite 1  
Deer Park, New York 11729

Re: Fees for Member Locator Services.

Dear Mr. Campasano:

We are writing to clarify our May 16, 2000, letter to you. You had requested our opinion regarding whether a federal credit union (FCU) may charge a fee to a member's account to recover its expenses in locating the member's current address. We stated that locator fees are permissible under the NCUA regulation that permits an FCU to determine the fees it charges members for opening, maintaining or closing a share, share draft or share certificate account. 12 C.F.R. §701.35(c). We also stated that FCUs must comply with the disclosure requirements of the Truth in Savings regulation as well as ensuring the accuracy of any advertising. 12 C.F.R. Part 707, 740. We want to clarify that locator fees are excluded from the disclosure requirements of Part 707. 12 C.F.R. §707, App. C, Comment §707.4(b)(4)(ii). Nevertheless, an FCU must ensure that it has complied with other federal law, including the accuracy of any advertising. An FCU must also ensure that the fees are consistent with its contractual obligations. 12 C.F.R. §701.35(c); 12 C.F.R. §740.2.

In your letter, you referred to the Federal Credit Union Bylaws (FCU Bylaws, or bylaws). In 1999, NCUA published a major revision of the FCU Bylaws. 64 Fed. Reg. 55760 (October 14, 1999). You correctly state that prior to that revision, the bylaws provided that the FCU could charge a member's account for necessary locator service expenses, in an amount no greater than a maximum established by the board, if a member failed to keep the FCU advised of his current address. FCU Bylaws XIX, Section 7. This provision was identified as outdated and was deleted from the 1999 revision. It is unnecessary in light of the regulatory provisions discussed above.

Sincerely,

Sheila A. Albin  
Associate General Counsel

OGC/DMS:bhs  
SSIC 3501

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