

December 18, 2000

Ms. Mary Beth Guard
Glia Group, Inc.
Mr. George Meinz
Bankers Systems Inc.
Legal Services and Development
P.O. Box 1457
St. Cloud, MN 56302-1457

Re: Timing of Annual Notices and Verification of Funds under NCUA's
Consumer Privacy Regulation, Part 716.

Dear Ms. Guard and Mr. Meinz:

You have asked for clarification on two issues relating to the National Credit Union Administration's regulation on privacy of consumer financial information. 12 C.F.R. Part 716. You seek guidance on the timing of annual notices as it relates to initial notices and the permissibility of a credit union responding to requests from third parties for verification of its member's funds.

The initial notice must be sent to all members by July 1, 2001, and the annual notice must be provided annually thereafter. 12 C.F.R. §§716.18(b)(1), 716.5(a)(1). The credit union may define the 12-consecutive-month period; the only requirement is that the credit union be consistent in the 12-consecutive-month period it selects. If a credit union selects a calendar year then, as stated in your letter, members may not receive their annual notices until 18 months after receiving the initial notices. This is permissible and is one of the examples provided in the rule. 12 C.F.R. §716.5(a)(2). You also ask whether a credit union may use a different 12-consecutive-month period for different categories of members. Nothing in the rule prohibits this, as long as the credit union is consistent with respect to the 12-consecutive-month period it selects for a particular category.

You next ask if a credit union's verification to a payee about the sufficiency of funds in a member's account to pay a share draft falls within the §716.14(a) exception to the notice and opt out requirements. This exception permits a credit union to dispense with the opt out requirements if the credit union is providing the information in connection with "[s]ervicing or processing a financial product or service that a consumer requests or authorizes." 12 C.F.R. §716.14(a)(1) (emphasis added). The processing of a share draft is a financial service the consumer has authorized and, therefore, falls within this exception.

Sincerely,

Sheila A. Albin
Associate General Counsel

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