

NCUA LETTER TO CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314

DATE: June 2015

LETTER NO: 15-CU-04

TO: Federally Insured Credit Unions

SUBJ: Improving the Process for Consumer Complaints

ENCL: Responding to Consumer Complaints

Dear Board of Directors and Chief Executive Officer:

This letter describes recent changes to streamline and improve NCUA's consumer complaint handling process.¹ **The most important change will provide credit unions with 60 days to resolve most consumer complaints before NCUA's Consumer Assistance Center intervenes.**

This letter also includes recommendations for credit unions to maintain effective procedures to process consumer complaints as part of their overall compliance management systems.²

Consumer Assistance Center Complaint Handling Process

NCUA's Consumer Assistance Center is responsible for addressing consumer complaints involving federal credit unions (FCUs) with total assets up to \$10 billion, and in certain instances, federally insured state-chartered credit unions (FISCUs).³ Complaints involving matters that do not fall within NCUA's purview are forwarded to either the appropriate state supervisory authority or federal regulator for disposition.⁴

The Consumer Assistance Center receives complaints online and by email, fax and regular mail. NCUA's consumer protection website, MyCreditUnion.gov, hosts the online Consumer Assistance Center and provides access to complaint forms and information about the Consumer Assistance

¹ This letter supersedes NCUA Letter to Credit Unions No. 11-CU-17, dated October 2011, which addressed the creation of NCUA's Office of Consumer Protection (OCP) and its consumer complaint handling process.

² The term "consumer" is used throughout this letter to collectively refer to both consumers and credit union members.

³ NCUA's [National Supervision Policy Manual](#) outlines the federal consumer protection regulations the agency is responsible for enforcing over FISCUs.

⁴ Consumer complaints involving federal financial consumer protection laws and against credit unions with total assets over \$10 billion are handled by the Consumer Financial Protection Bureau (CFPB). Complaints forwarded to the Consumer Assistance Center from state supervisory authorities or other federal regulators, including CFPB, are handled in accordance with the procedures described in this letter.

Center's complaint handling process. The Consumer Assistance Center is administered by OCP's Division of Consumer Affairs.⁵

The Consumer Assistance Center is making improvements to its consumer complaint intake process to assist both the credit union and the consumer in resolving each consumer complaint and streamline the complaint handling process. These improvements involve two distinct phases:

- 1) Attempted resolution by the credit union, as appropriate; and
- 2) Investigation by the Consumer Assistance Center, when necessary.

As detailed below, these new procedures seek to provide the appropriate credit union personnel with written information about the consumer's concerns and sufficient time to attempt to resolve the situation before the Consumer Assistance Center begins its investigation of the matter.⁶

The changes in the Consumer Assistance Center's handling of consumer complaints will be implemented gradually over the next several months. This extended implementation time period is intended to provide credit unions with sufficient opportunity to become familiar with the Consumer Assistance Center's new procedures and make any necessary adjustments to their compliance management systems and complaint handling processes.

Phase One - Attempted Resolution by the Credit Union

In this initial phase:

- 1) The Consumer Assistance Center assigns a unique identification number (case number) to each complaint it receives, to facilitate ease of reference.
- 2) The Consumer Assistance Center then forwards the complaint and any documents provided by the consumer in support of the complaint to the chairman of the FCU's supervisory committee (or in the case of some FISCUs, the audit committee) with a copy to the credit union's CEO.
- 3) The supervisory committee (or audit committee) will have the opportunity to review and, if appropriate, attempt resolution of the matter within 60 calendar days of the date of the forwarding letter.⁷

⁵ OCP also includes the divisions of Consumer Compliance Policy and Outreach, Consumer Access, and Consumer Access-South. For information about the duties of each division, as well as numerous consumer compliance regulatory resources, [click here to navigate the OCP webpage](#).

⁶ Attempted resolution of a complaint involves documented actions taken in light of the relevant laws and regulations, to fairly or equitably address the concerns of the consumer.

⁷ Certain categories of complaints will *not* be forwarded to the credit union. Complaints against credit unions involving "whistleblower" allegations (complaints from current or former credit union employees about the credit union's activities), safety and soundness issues, Bank Secrecy Act, or other regulatory matters outside of the scope of the Office of Consumer Protection's authority will be forwarded to the appropriate NCUA office for handling. Also, complaints primarily involving matters under the purview of OCP's Divisions of Consumer Access and Consumer Access-South, such as credit union governance, are initially reviewed internally and thereafter may be sent to the credit union for resolution. The contact information for these two Divisions is DCAMail@ncua.gov and 703-518-1150.

- 4) The Consumer Assistance Center also sends an acknowledgement letter to the consumer indicating that the complaint was received and forwarded to the credit union in an attempt to resolve the matter.

Specifically, during this 60-day period, the Consumer Assistance Center recommends that the credit union take the following steps in attempting to resolve the complaint:

- Review the complaint in accordance with the suggestions detailed in the attached OCP guide, Responding to Consumer Complaints;
- Communicate directly with the consumer as needed and appropriate; and
- Respond in writing to the consumer, with a copy to the Consumer Assistance Center, referencing the case number and indicating whether the credit union has been able to resolve the matter.⁸

In the event that the Consumer Assistance Center is notified in writing within the 60-day time period that the matter has been resolved, it will close the case.

However, the Consumer Assistance Center may begin a formal investigation of the matter, if:

- The Consumer Assistance Center does *not* receive any written response from the credit union within the 60-day time frame;
- The credit union notifies the Consumer Assistance Center in writing that it has been unable to resolve the matter with the consumer; or
- The consumer disputes the resolution of the complaint by contacting the Consumer Assistance Center in writing within 30 calendar days of the date of the credit union's response letter.

Phase Two – Consumer Assistance Center Investigation

In this second phase:

- 1) The Consumer Assistance Center sends a letter to the chairman of the FCU's supervisory committee (or in the case of a FISCU, the audit committee) with a copy to the credit union's CEO. The letter includes the consumer's original complaint and any documents provided by the consumer in support of the complaint. It indicates that the Consumer Assistance Center is investigating the complaint and requests a written response to the Consumer Assistance Center about the matter within 30 calendar days from the date of the letter.
- 2) The Consumer Assistance Center also sends a letter to the consumer indicating that it has begun an investigation of the complaint.

NCUA's [Supervisory Committee Guide for Federal Credit Unions](#) details the appropriate procedures for FCUs' handling of member complaints, including their receipt, investigation, and documentation. Section 4.12 of the Guide indicates the need for the supervisory committee to

⁸ A credit union's correspondence to the Consumer Assistance Center could be released under the Freedom of Information Act (FOIA), under the Privacy Act of 1974, or when OCP determines the information provided, in whole or in part, may assist in explaining the situation. In addition, OCP will retain this information for its records.

review pertinent records, credit union procedures and practices and, where appropriate, take corrective action.

When the Consumer Assistance Center receives the supervisory committee's response, it reviews the response to ensure it adequately addresses issues raised in the complaint and that the action(s) taken, if any, are consistent with federal financial consumer protection laws and regulations. If the FCU did not address all of the consumer's concerns in its response, or there are remaining questions involving federal financial consumer protection issues, the Consumer Assistance Center will request additional information and/or clarification from the credit union and notify the consumer that the complaint investigation is still ongoing.

When the credit union adequately addresses and the Consumer Assistance Center analyzes all issues associated with the complaint, the Consumer Assistance Center will notify the consumer and the credit union of one of the five following potential outcome determinations:

- The complaint does not involve a federal financial consumer protection law or federal consumer compliance regulation for which NCUA has enforcement authority, and therefore, the Consumer Assistance Center has closed its case in this matter;
- The complaint is the subject of a pending lawsuit, and therefore, the Consumer Assistance Center has closed its case in this matter;
- The credit union has resolved the complaint with the consumer, and therefore, the Consumer Assistance Center has closed its case in this matter;
- The credit union's actions in this matter either did not violate or were not inconsistent with a federal financial consumer protection law or federal consumer compliance regulation, and the Consumer Assistance Center has closed its case in this matter; or
- The credit union's actions in this matter either violated or were inconsistent with a federal financial consumer protection law or federal consumer compliance regulation for which NCUA has enforcement authority. To the extent NCUA has any supervisory concerns about the credit union's actions, NCUA will follow up directly with the credit union to resolve them and ensure compliance with the applicable law or regulation.

Appeal of Consumer Assistance Center Determination

Credit unions and consumers may request that the Director of the Division of Consumer Affairs review the Consumer Assistance Center's determination in complaint matters. This appeal of the determination should be in writing and received by the Director of the Division of Consumer Affairs within 30 days of the date of the Consumer Assistance Center determination letter.⁹ Thereafter, as part of this independent review process, the Director of the Division of Consumer Affairs may seek additional information from the consumer or credit union before making a final determination.

⁹ The contact information for the Director of the Division of Consumer Affairs is 1775 Duke St., Alexandria, VA 22314-3418, Telephone | 800-755-1030, Email | consumeraffairs@ncua.gov.

While we encourage the appeal process through the Director of the Division of Consumer Affairs, consumers and credit unions continue to have the right to file a complaint with the NCUA Ombudsman, who reviews consumer complaints and recommends possible solutions. The Ombudsman assists in resolving problems by helping the complainant define options and by recommending actions to the parties involved.

Chart - Consumer Assistance Center Procedures

Below is a chart summarizing the Consumer Assistance Center’s new procedures.

Process	Action	Credit Union Response Time Frame
Phase I	Attempted Resolution (See Page 2)	Response to the consumer with a courtesy copy to the CAC received within 60 days from the date of the Phase I letter.
Phase II	Investigation (See Page 3)	Response to the CAC received within 30 days from the date of the Phase II letter.
Appeal	Review by the Director of the Division of Consumer Affairs of CAC Determination (See Page 4)	Response requesting review of CAC determination received by Director of the Division of Consumer affairs within 30 days from the date of the CAC determination letter.

Managing Compliance Risks

As member-owned financial cooperatives, credit unions have a strong interest in managing compliance and reputational risk. A critical element of a strong compliance management system is establishing written policies and procedures to record, categorize, analyze, investigate, resolve, and respond to complaints in an appropriate and timely manner.

A well-planned, implemented and maintained compliance management system is a sound business practice to prevent or reduce regulatory violations and inconsistencies, protect consumers, and provide cost efficiencies. An effective compliance management system allows the credit union’s management and employees to understand a credit union’s compliance responsibilities, and incorporates compliance requirements into a credit union’s business processes. It ensures that compliance responsibilities and requirements are carried out, corrective actions are taken, and tools, systems, and materials are updated as necessary. Other important elements of a sound consumer compliance management system include board and management oversight; a formal written compliance program that consists of policies, procedures, training, monitoring, and prompt handling of consumer complaints; and auditing the compliance program.

Your credit union’s internal consumer complaint handling process should include procedures that provide for the documentation of complaints received and actions taken to address them. Your credit union should establish channels to receive consumer complaints and inquiries, such as telephone numbers or email addresses dedicated to receiving this type of correspondence. After reviewing each complaint and conducting an investigation of the matter, your credit union should provide a written response to the consumer.

For a list of recommended practices in handling consumer complaints, see the attached OCP guide, Responding to Consumer Complaints.

Your credit union's response should address all issues raised in the complaint and explain its actions and decisions in the matter. In addition, your credit union should take corrective action, as necessary, and evaluate complaint trends to identify and correct systematic compliance problems.

Although both management and employees are responsible for maintaining a sound compliance management system, the appropriate credit union personnel responsible for overseeing the complaint handling process are the supervisory committee members for FCUs and audit committee members or their equivalents for FISCUs.

Communications with the Consumer Assistance Center

The contact information for the Consumer Assistance Center is:

**National Credit Union Administration - Consumer Assistance Center
1775 Duke St.**

Alexandria, VA 22314-3418

Telephone | 800-755-1030

Email | consumeraffairs@ncua.gov

Website | www.ncua.gov

Consumer Website | www.MyCreditUnion.gov

All Consumer Assistance Center communications to your credit union about complaints received will be sent to your credit union's email address provided in the Credit Union Profile section of NCUA's Credit Union Online system. Your credit union should ensure that this email address is current and accurate, and should have procedures in place to appropriately monitor the inbox for this email address. Also, in an effort to expedite the receipt of electronic credit union responses to the Consumer Assistance Center about consumer complaints, the subject line of the email should read as follows: Consumer Name and Consumer Assistance Center [Case #].

I hope this letter enhances your understanding of NCUA's Consumer Assistance Center, as well as our recommendations of how credit unions should handle consumer complaints. If you have any questions about these matters, please contact OCP at 703-518-1140 or OCPmail@ncua.gov.

Sincerely,

/s/

Debbie Matz
Chairman