

August 28, 2003

Carolyn M. Warden, CCUE
FedComp
10300 Eaton Place, Suite 330
Fairfax, VA 22030

Re: Mailing of Member Statements in Single Envelope per Household.

Dear Ms. Warden:

This letter replaces an earlier letter to you dated August 21, 2003, that responded to your question of whether it is permissible to combine member statements into a single mailing per address or household. To clarify our previous opinion, our view is that the practice is not permissible unless, as provided in NCUA's consumer privacy regulation, a member consents or the credit union has complied with the notice and opportunity for opt out provisions of the regulation. 12 C.F.R. Part 716.

The Federal Credit Union Bylaws provide that a federal credit union (FCU) must hold in confidence all transactions with its members and all information respecting their personal affairs, except when permitted by state or federal law. FCU Bylaws 10/99, Article XVI, Section 2. NCUA's consumer privacy regulation, which applies to all federally insured credit unions, prohibits sharing nonpublic, personally identifiable financial information unless the member consents or the credit union has first provided notice and an opportunity to opt out from the sharing. 12 C.F.R. §§716.4 – 716.10; §716.15(a)(1). Member account statements are clearly within the definition of nonpublic personal information. 12 C.F.R. §716.3(q) and (r).

We note that nothing in the consumer privacy regulation affects the right of persons to receive statements on behalf of another when they are otherwise legally entitled to do so, such as guardians, custodians, conservators, or trustees. In addition, consistent with the consumer privacy regulation's provision on joint accounts and the nature of a jointly owned account, our view is that one statement may be sent for a joint account. 12 C.F.R. §716.7(d).

Your interest in raising this question is that, as a data processor, you had received inquiries about the feasibility of sorting member statements by address or household so that multiple family members' statements could be folded together and mailed in a single envelope. We appreciate your concern about consumer privacy and hope that this letter clarifies the requirements of NCUA's consumer privacy regulation in this regard.

Sincerely,

Sheila A. Albin
Associate General Counsel

OGC/RPK/SAA:bhs
03-0750