



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

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-3,800
3/20/86

Office of General Counsel

Brian J. O'Donnell, Esquire
Rowley, Forrest and O'Donnell, P.C.
90 State Street
Albany, NY 12207

Dear Mr. O'Donnell:

This is in response to your two letters of February 4, 1986, concerning Federal credit union (FCU) participation in a third-party payment plan where FCU members would direct the FCU to deduct from their FCU accounts amounts to pay their union dues and to have the FCU forward those funds to the union.

It has been NCUA's longstanding position that FCU's are authorized, pursuant to their incidental powers (12 U.S.C. §1757(16)), to participate in such plans. A discussion of preauthorized transfers is contained in Section 5210 (Third Party Payment Plans) of the Accounting Manual for Federal Credit Unions. A copy of Section 5210 is enclosed. Although the payment of union dues is not specifically mentioned in this Section, it should provide helpful guidance in handling such a plan.

We are unaware of any recent inquiries on FCU participation in a dues payment plan. As noted above, such participation is within an FCU's incidental powers.

I hope that we have been of assistance. If further questions arise, please contact Hattie Ulan of this Office.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

Enclosures

cc: Nancy Zebniak, Region I (Boston)

HMU:cch

FOIA file: Vol. II, Part H

Third party
payment

5210 THIRD PARTY PAYMENTS

The National Credit Union Administration has determined that Federal credit unions may receive payments from or make payments to third parties upon written authorization being established by the member in advance of the completion of the payment transfer. These receipts and payments may be by electronic funds transfer (EFT) or by use of conventional checks, drafts, money orders, etc. Some examples of third party payment arrangements are:

1. Preauthorized payments to a member's share or loan account from the member's employer (Payroll Deduction Plan).
2. Direct deposit of Federal Recurring Payments, such as Social Security, Civil Service annuities, and Railroad, Veteran's Administration, Army, Navy and Air Force retirement checks.
3. Check transmittal services in which credit unions accept members' paychecks for transactions with the credit union, then sends a check for the remainder of the paycheck to the member's bank for deposit to his account.
4. Payment of member's utility bills from members' share accounts.
5. Preauthorized payment plans from the members' share accounts to pay other recurring items such as insurance premiums and mortgages or rent payments.

5210.1 ELECTRONIC FUNDS TRANSFER, AUTOMATED CLEARING HOUSE PAYMENTS, AND TELEPHONE BILL PAYMENTS

Credit union members may instruct employers and others making regular payments to them to have funds deposited directly into their accounts. This service may be used for depositing wages, social security benefits, dividends, and other types of income payments. In a direct deposit arrangement, the originator of the payment (employer, etc.) directs its financial institutions to transfer funds electronically, through an automated clearing house, (a computer used to sort transactions and forward them to the appropriate receiving financial

institution) to the financial institution designated in a preauthorized agreement by the person receiving the payment. Upon receipt of the electronic advice of credit, the credit union deposits funds in the appropriate member's account.

Two types of electronic fund transfer services may be used by a credit union member to pay bills. First, the member may preauthorize merchants and creditors to draw funds from his or her account. Under this arrangement the member would direct in writing a merchant or other party to draw funds from his or her account on a given date in an amount sufficient to pay the bill. This arrangement is normally used only for recurring bills of a fixed amount such as insurance premiums, mortgage payments or rent. Secondly, the member by written agreement may direct the credit union to pay bills. Under this arrangement, the member usually receives an identification code from the credit union. This code is used when requesting the credit union to charge the member's account in order to pay a bill. Normally a written agreement is completed only once and from that point on the instructions to pay the bill are given verbally over a telephone or through the use of a touch-tone telephone using a prearranged coding scheme.

5210.1.2 ELECTRONIC FUNDS TRANSFER ACT

The Electronic Funds Transfer Act provides a basic framework establishing the rights, liabilities and responsibilities of participants in electronic funds transfer systems. The Act has civil and criminal liabilities for violations of its provisions.

An Electronic Funds Transfer (EFT) is a transfer of funds initiated through an electrical terminal, telephone or computer that instructs a financial institution to either credit or debit an asset account. For this purpose, an asset account is a share account, share draft account, and/or share certificate account established by the consumer primarily for personal or household use.

Examples of covered transactions are:

1. Electronic terminals — Any transaction affecting a share account completed through an electronic terminal is a covered transaction. An electronic terminal is a machine, usually activated by a plastic card and/or code, which allows consumer

transact routine business, i.e., deposits or withdrawals to or from any share account.

2. Direct deposits — All common forms of credits to a consumer's account, such as payroll, payroll deduction, military allotments and other Federal recurring payments, such as social security, VA benefits, military payroll, etc., are covered *if settled electronically.*
3. Preauthorized payments — Any debit or credit affecting a consumer's account on a regularly recurring basis such as insurance or loan payments, bill payments, and dividend and annuity payments, are covered *if settled electronically.*

(Electronically initiated settlement — If settlement occurs without a paper check, it is a covered transaction. Settlement means the actual cash transfer to or from the credit union's bank account for debit or credit to a member's share account. Electronic settlement occurs when the cash transfer to or from your credit union's bank account is via an electronic message instead of a paper check.)

It has been determined that there are electric funds transfers which are exempted from Regulation E. These exemptions are listed below. At the present time, this list is not all-inclusive.

1. Check guarantee or authorization services that do not directly result in a debit or credit to the consumer's account;
2. Wire transfers (The Fedwire, bankwire, and similar transfer networks are used primarily for business purposes. While they are fully electronic, they are exempt from Regulation E since their primary purpose is to carry non-consumer transactions. Automated Clearing House (ACH) transactions are not exempt, however, when settled electronically, because these transactions affect consumer asset accounts.);
3. Transactions from the credit union into a consumer's account, such as the crediting of dividends to a share account. (However, the credit union is subject to the provisions of the Act covering civil and criminal liability and the compulsory use of EFTs.);
4. Transactions from a consumer's account to the credit union, such as a loan payment. (However, the credit union is subject to the provisions of the Act covering civil and

criminal liability and the compulsory use of EFTs.);

5. Any transfer of funds initiated by a telephone conversation that is not pursuant to a prearranged plan and in which periodic and recurring transfers are not contemplated; and
6. Any transfer between an individual's own account, such as a transfer from a share to a share draft account.

Credit unions that have transfers which are EFTs must comply with the requirements of Regulation E which deals with:

1. Disclosures to members concerning terms and conditions;
2. Control over issuance of access devices;
3. Frequency of periodic statements and required information included on the statement;
4. Documentation of transfers initiated at an electronic terminal;
5. Procedures for handling preauthorized transfers;
6. Procedures for resolution of errors;
7. Liabilities for unauthorized use.

5210.1.3 AUTOMATED CLEARING HOUSE

Because of the ever-increasing number of checks that are physically passed through the banking houses, the Automated Clearing House was established. The purpose of the ACH is to eliminate the unnecessary handling and routing of every check.

Credit unions can become members of the Automated Clearing House so that it will be able to receive direct deposit of Federal recurring payments such as members social security checks, payroll check of Federal employees. Instead of having the U. S. Government prepare checks for each individual, a magnetic tape is prepared and sent to the ACH. The ACH then sorts the tape and credits the financial institution's account with the funds.

All other programs involving the use of the Automated Clearing House's facilities by a credit union must be approved by National Credit Union Administration.

5210.2 FEDERAL RECURRING PAYMENTS

Federal credit unions are encouraged to participate in the Federal Recurring Payments Direct Deposit Program. All financial institutions in the United States have been provided with copies of "The Green Book" prepared by the Department of the Treasury. This publication covers all Federally Recurring Payments and provides information on all aspects of the Direct Deposit Program. Additional copies of the publication can be obtained from:

U. S. Department of the Treasury
Operation Planning and Research Staff
Room 226, Treasury Annex No. 1
Pennsylvania Avenue and Madison Place,
N. W.
Washington, D. C. 20226

Federal credit unions participating in the Federal Recurring Payments Direct Deposit Programs have the option of crediting members' accounts on the due dates of the Federal payments regardless of actual receipt of funds under this program.

5210.3 CHECK TRANSMITTAL SERVICE

A Federal credit union desiring to do so may provide a check transmittal service to its members. Under this system, members present their paychecks for transactions with the credit union. After deducting the amount of the transaction from the amount of the check presented, the credit union sends a check for the remainder of the member's paycheck amount to the member's bank for deposit to his account. This plan may be especially helpful in reducing the amount of cash that a credit union must have on hand for members' payday activities.

When a member presents his paycheck for a transaction, the credit union records his Share, Loan and Interest transactions on a Cash Received Voucher in the normal manner. The total cash received to be shown on the voucher will be the total amount of the check which the member presents. The difference between the amount of the credit union transactions and the total amount of the check will be entered on a blank line on the Cash Received Voucher and identified as "Accounts Payable—Check Transmittal Service" as a credit. The corresponding debit for cash disbursed to the members' banks will be to Accounts Payable — Check Transmittal Service, thereby closing out the balance in that account. The name of the member's

bank and his checking account number will also be shown on a Cash Received voucher. The standard Cash Received Voucher will be used, or a special voucher may be designed to record this type of transaction.

Any checks received under this system are deposited in the credit union's checking account with the other receipts of the day. In summarizing the day's cash receipts, it will be necessary to determine the amount of funds which are to be sent to each bank for credit to the members' accounts. This information must appear on the Summary Cash Received Voucher or on a separate listing which will be attached to the voucher.

In order that the members receive prompt credit to their checking accounts, the credit union will forward its check(s) to the bank(s) on the same day it receives the funds, or as promptly as possible thereafter. If two or more members designate the same bank, the credit union may issue one check for the total amount to be sent to that bank. The credit union's check must be accompanied by a transmittal sheet, identifying the members, their bank account numbers and the amount to be credited to each member's accounts. The wording of the transmittal must indicate that the credit union, in carrying out the transactions of the member, in doing so, incurs no liability to the bank. A copy of each transmittal must be retained in the credit union office.

5210.3.1 ILLUSTRATIVE ENTRIES (JOURNAL AND CASH RECORD)

- (1) Member presents his paycheck for payment to the credit union, with the remainder to be transmitted to his checking account.

Dr. — Cash (Acct. No. 731) \$300.00
Cr. — Loans (Acct. No. 701)
Cr. — Interest on Loans
(Acct. No. 111)
Cr. — Accounts Payable
(Acct. No. 801)

- (2) Credit union sends its check to the remainder of member's paycheck to member's bank checking account.

Dr. — Accounts Payable
(Acct. No. 801) \$250.00
Cr. — Cash (Acct. No. 731)

5210.4 COLLECTION OF UTILITY BILLS BY FEDERAL CREDIT UNIONS

A Federal credit union may make utility bill collection service available to its members. It may also receive a fee from the utility company for extending the service providing the fee is limited to the direct and indirect costs incurred.

5210.4.1 WRITTEN AGREEMENT

A written agreement must be executed between the credit union and the utility company in which the responsibilities and liabilities of the credit union are fully explained. The credit union must have its attorney's written assurance that the agreement conforms with pertinent state or local laws, with the Federal Credit Union Act, bylaws and regulations and that the interests of the credit union are adequately protected.

5210.4.2 PROCEDURES FOR THE COLLECTION OF UTILITY BILLS

5210.4.2.1 RECEIPTS

- (a) A member paying his utility bill must be given a receipt for his payments. This may be either the utility bill stub stamped "paid" or a special receipt (depending on company policy) and/or a cash received voucher.
- (b) Utility bill receipts may be kept in the same drawer with regular receipts unless the credit union desires to separate the proceeds.
- (c) At the end of the day, or more frequently if that is the credit union's custom, the proceeds will be accounted for and reconciled with the portions of the utility bills to be forwarded to the utility company and with the credit union's record of the transactions (vouchers or log).
- (d) It is intended that all utility bill payments from members be entered on the credit union's books. Therefore, members' payments must be made by cash or by check made payable to the credit union. However, it would be permissible for the credit union to accept checks made payable to the utility company if the checks were stamped with a special endorsement so they could be deposited with the credit union's checking account. This arrangement must have the written approval of the utility company.

5210.4.2.2 RECORDS

The credit union must have its own record of the transaction. This will be a cash received voucher. If this method is used, a duplicate voucher form could be used, one copy of which will be given to the member as explained previously. Another method would be to record utility bill receipts in a daily log designed for the purpose or, if appropriate, a form provided by the utility company.

5210.4.2.3 ACCOUNTING INSTRUCTIONS

All receipts and disbursements must be handled through Cash (Account No. 731). The credit union's liability for the funds received will be recorded in Accounts Payable (Account No. 801). Reimbursed fees received from the utility company will be recorded in Miscellaneous Operating Income (Account No. 151).

5210.4.2.4 ILLUSTRATIVE ENTRIES (JOURNAL AND CASH RECORD)

- (1) When the credit union's utility bill collections are accounted for at the end of the day (or more frequently if that is the credit union's custom).
Dr. — Cash (Acct. No. 731) \$500.00
Cr. — Accounts Payable
(Acct. No. 801)
(Name of Utility)
- (2) When the utility bill collections are paid to the utility company.
Dr. — Accounts Payable
(Acct. No. 801) \$500.00
Cr. — Cash (Acct. No. 731)
- (3) When the credit union receives reimbursement fees from the utility company.
Dr. — Cash (Acct. No. 731) \$500.00
Cr. — Miscellaneous Operating
Income (Acct. No. 151)
- (4) When the credit union deducts the fee from the utility bill remittances.
Dr. — Accounts Payable (Name of
Utility (Acct. No. 801) \$500.00
Cr. — Cash (Acct. No. 731)
- Cr. — Miscellaneous Operating
Utility (Acct. No. 151)
- (5) Payment of Utility Bills by Share Withdrawal.

A member may authorize his credit union to pay his utility bills by share withdrawal. The Journal and Cash Record entry should be:

Dr. — Shares (Acct. No. 901) \$10.00
 Cr. — Accounts Payable
 (Acct. No. 801)..... \$10.00

5210.5 OPERATIONAL GUIDELINES

The following guidelines will be observed for all preauthorized payment transfer plans:

- (a) The service will be available to all members.
- (b) The authorization form signed by the member will state that the Federal credit union will not be responsible or liable to remit payments to third parties if a member does not have sufficient funds in his account to make a payment. The authorization form will also include the member's agreement to the release of information

necessary to facilitate the withdrawal of his funds through the program.

- (c) All preauthorizations must be in writing and must indicate the party to whom payment is to be made. Changes to the member's authorization must also be in writing, and will be retained in the credit union's file.
- (d) Adequate internal controls must be established to avoid overdrafting of members' share accounts and to avoid unauthorized withdrawals from one member's account to pay another member's creditors.
- (e) When making preauthorized payments to third parties, the board of directors of a Federal credit union may establish service charges to cover the cost of providing the service. The charge imposed for this service will not exceed the Federal credit union's direct and indirect cost of providing the service.

5220 DELINQUENCY CONTROL

5220.1 NEED FOR DELINQUENCY CONTROL

The number of bad debts is growing for all financial institutions. Many new laws have been enacted which are designed to protect the debtor and, in the process, make it more difficult for lending institutions to recover collateral and overdue payments.

Effective collection procedures and the resulting low delinquency, are one of the best means of sustaining a sound financial condition and continuing quality of member services. This applies to any size credit union which is staffed by volunteers or a paid professional staff. Some of the positive benefits of effective collection procedures are:

- (1) **Maximum cash flow will be maintained and funds will be provided to make additional loans and to improve member services.**
- (2) **Maximum income will be derived as a high level of interest income will be maintained. Dividends can thus be maximized.**

- (3) The financial condition will remain sound because reserves will not be drained by offset collection problem loans.

It is easier to control delinquency within a group of membership where members have been educated to repay their debts promptly and it is an accepted fact that delinquency will not be tolerated.

5220.2 ELEMENTS OF DELINQUENCY CONTROL

Delinquency control requires a comprehensive program involving all officials, employees and members. It encompasses many phases of the credit union's operations from lending policies to supervisory committee audits. The essential elements of delinquency control are:

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| 1) Lending Policies | 6) Computation of Delinquency |
| 2) Education of Members | 7) Schedule of Delinquent Loans |
| 3) Collection Policies | 8) Collection Procedures |
| 4) Selection and Training of Personnel | 9) Documentation |
| 5) Identification | 10) Control |