



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

April 24, 1990

Office of General Counsel

Mr. Shane Berger  
President, Beehive Federal Credit Union  
P.O. Box 40  
Rexburg, Idaho 83440-0040

Re: Public Access to Comment Letters

Dear Mr. Berger:

Becky Baker, the NCUA Board Secretary, asked that we respond to your February 12, 1990, letter to her regarding public access to comment letters on proposed amendments to NCUA Regulations.

BACKGROUND

A comment letter submitted by you to the NCUA Board on a proposed amendment to NCUA's Regulations was read by a representative of the news media who wrote an article based in part upon your comment letter. You requested that NCUA not disclose comment letters to the general public. You stated that you had anticipated that your letter would be kept confidential by NCUA.

ANALYSIS

The Administrative Procedure Act requires NCUA to provide interested parties an opportunity to participate in rulemakings through the submission of written comment letters to NCUA. (See 5 U.S.C. 553(c).) The comment letters received by NCUA become part of NCUA's administrative record. The comment letters can be requested by the public under the Freedom of Information Act ("FOIA") (5 U.S.C. 552). While FOIA provides certain exceptions to allowing a federal agency to withhold documents requested under the FOIA, the exceptions do not provide a basis for withholding comment letters submitted by a credit union. NCUA cannot, therefore, refuse to make comment letters available.

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We hope that you will continue to participate in NCUA rulemaking through the submission of comment letters. Credit union involvement in this process is essential.

Sincerely,

*Hattie M. Ulan*

Hattie M. Ulan  
Associate General Counsel

GC/JT:sg  
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90-0229

cc: Becky Baker