

January 5, 2009

Sarah Libick-Smith, Bookkeeping Manager
Superior Iron Range Federal Credit Union
490 E. U.S. Highway 41
Negaunee, MI 49866

Re: Electronic Stop Payment Order.

Dear Ms. Libick-Smith:

You have asked if a credit union must obtain a signed, stop payment form to document a member's request to stop payment on a share draft using an automated, telephone teller service. Under NCUA regulations, a signed form is not required, as long as a credit union retains the electronic record in accordance with its records retention policy. However, to determine whether state law would require a signed document, you should consult with local legal counsel.

Superior Iron Range Federal Credit Union (SIR FCU) offers an automated, telephone teller service to its members. Members can only access the service by entering their share account number and a user-defined, personal identification number (PIN). Members can issue a stop payment order for a share draft using the automated system. When members issue a stop payment order using the automated service, SIR FCU does not obtain a signed stop payment form.

Under the Electronic Signatures in Global and National Commerce (E-Sign) Act, 12 U.S.C. §7001 *et seq.*, entering a share account number, PIN, or both into an electronic system can create an enforceable agreement in place of a signed form. An electronic signature is an electronic sound, symbol, or process logically associated with a record and executed or adopted by a person with the intent to sign the record. 15 U.S.C. §7006(5). An electronic signature may not be denied legal effect, validity, or enforceability solely because it is in electronic form. 15 U.S.C. §7001(a).

A federally-insured credit union (FICU) should retain a stop payment order created using an automated system as an electronic record in accordance with its record retention policy. An electronic record is a record created, generated, sent, communicated, received, or stored by electronic means. 15 U.S.C. §7006(4). If a statute, regulation, or other law requires a record be retained, an electronic record that accurately reflects its contents and is accessible to all entitled persons satisfies the requirement. 15 U.S.C. §7001(d)(1). NCUA regulations require credit unions to retain vital records, and a stop payment order is not a vital record. See 12 C.F.R. §749.1. Credit unions should, however, establish a retention policy or disposition schedule for all records. 12 C.F.R.

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§749.2. Additionally, they may retain their records in any format, as long as the records are accurate, reproducible, and accessible, and FICUs should have disposition schedules for them. 12 C.F.R. §794.4 and Appendix A to Part 749.

FICUs should be mindful of the criteria regarding accuracy and accessibility of their records. Appendix A to Part 749 notes that, as far as relying on copies or reproductions of records, credit unions “should also ensure that the reproduction is acceptable for submission as evidence in a legal proceeding.” 12 C.F.R. Part 749, Appendix A, §A. Whether a reproduction will be acceptable in a legal proceeding may vary with state law requirements and, therefore, we encourage credit unions to consult with their own legal counsel on this aspect of their record retention policy.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

OGC/MIG:bhs
08-1122