

NCUA LETTER TO CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION SHARE INSURANCE FUND

LETTER NO. 173

DATE: July 1995

DEAR BOARD OF DIRECTORS:

Letter to Credit Unions No. 142 dated February 1993, encouraged credit unions to support law enforcement's efforts to identify and prosecute money laundering activities involving large-value funds transfer systems. This included, to the extent practical, complete originator and beneficiary information when sending payment orders over any funds transfer system, including Fedwire, Clearing House Interbank Payments System (CHIPS), Society for Worldwide Interbank Financial Telecommunications (S.W.I.F.T.), and any other proprietary networks.

Regulatory changes to implement amendments Congress made to the Bank Secrecy Act (Act) were issued by the Department of the Treasury in December 1994 and are effective January 1, 1996. This letter discusses those changes. The complete text of the regulation may be found at 31 C.F.R. Part 103 or copies can be obtained through your state league or trade association. You should always refer to the complete text to assure compliance.

DEFINITIONS

I encourage you to review the definitions published as part of the rule. The more common terms are identified and described below. Treasury regulations relating to the Act have always defined the term bank to include credit unions.

Established customer - A person with an account at the financial institution.

Originator - The sender of the first payment order in a funds transfer.

Originator's financial institution - The financial institution which receives the payment order from its member instructing it to transmit funds. The financial institution may be an originator if it transmits for itself.

Beneficiary's financial institution - The financial institution identified in the payment order where the account of the beneficiary is to be credited pursuant to the order.

Intermediary financial institution - A receiving financial institution other than the originator's financial institution or the beneficiary's financial institution.

RECORDKEEPING REQUIREMENTS

Records may be retained as originals, copies, electronically or on microfilm. Records must be retained for a period of five years.

Requirements regarding creation and retention of records depend upon the credit union's role in the particular wire transfer, the amount of the transfer, and the relationship of the parties to the transaction with the credit union. Generally, the credit union will be involved as an originating, intermediary, or beneficiary financial institution in connection with the transmittal. The rule applies only to transmittals of \$3,000 or more.

Recordkeeping requirements when acting as an originator's financial institution:

1. The name and address of the originator;
2. The amount of the payment order;
3. The execution date of the payment order;
4. Any payment instructions received from the originator with the payment order;
5. As many of the following items as are received with the payment order:
 - a. Name and address of the beneficiary;
 - b. Account number of the beneficiary; and
 - c. Any other specific identifier of the beneficiary.

Generally, credit unions serve only their members; members will likely meet the definition of an established customer. When the originator is other than an established customer and when the credit union is acting as the beneficiary financial institution for a beneficiary who is not an established customer, additional identifying information is required. You should refer to the text of the rule in those circumstances.

Certain transmittals are exempt from recordkeeping requirements under the rule when the originator and the beneficiary are any of the following:

1. A domestic financial institution, e.g., credit union A transmits funds from its reserve account to its account at credit union B;
2. A wholly-owned domestic subsidiary of a domestic financial institution;
3. A domestic broker or dealer in securities;
4. A wholly-owned domestic subsidiary of a domestic broker or dealer in securities;
5. The United States;
6. A state or local government;
7. A federal, state, or local government agency or instrumentality (with the exception of credit unions); and
8. Transmittals where both the transmitter and recipient are the same person and transmitter's financial institution and the recipient's financial institution are the same domestic broker or dealer in securities.

This letter is intended to provide you with a brief summary of the Department of Treasury's final rule implementing changes to the Act. Each credit union is responsible for compliance with all provisions of the Act and applicable regulations.

For the National Credit Union Administration Board

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Chairman