

April 28, 1995

Ken Weaver
Compliance Officer
Lockheed Federal Credit Union
P.O. Box 6759
Burbank, CA 91510

Re: Change-In-Terms Notices (Your Letters of March 29, 1995 and April 13, 1995)

Dear Mr. Weaver:

You requested guidance regarding proper timing of a "change-in-terms" notice under the Truth in Savings Act ("TISA"), as implemented by NCUA in Part 707 of its Rules and Regulations, in the case of an acquiring credit union changing the terms of the merging credit union's share accounts. The relevant rule reads:

707.5 Subsequent disclosures. (a) *Change in terms -- (1) Advance notice required.* A credit union shall give advance notice to affected members of any change in a term required to be disclosed under 707.4(b), if the change may reduce the annual percentage yield or adversely affect the member. The notice shall include the effective date of the change. The notice shall be mailed or delivered at least 30 calendar days before the effective date of the change.

12 C.F.R. 707.5(a)(1). The rule, substantially similar to the change-in-terms rule issued by the Federal Reserve Board for banks and thrifts as required by TISA, makes no exceptions for merger circumstances.¹ The credit union holding the accounts must make the disclosure.² Therefore, a credit union acquiring accounts through a merger cannot make change-in-terms disclosures until it acquires such accounts. Any account changes would not become effective until at least 30 days after such change-in-terms notices were mailed or delivered to the accountholding members. However, it would be permissible for the merging credit union to send change-in-terms notifications to its members 30 days or more before the effective date of the merger, having the effective dates of the merger and change-in-terms coincide. Ken Weaver

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You also request permission to give a general change-in-terms notification to the merging credit union's accountholders,³ as opposed to a specific change-in-terms notification which spells out each difference between the merging and continuing credit union's share account terms. We presume that Lockheed FCU would provide any necessary help to the merging credit union's members to determine differences between the continuing (e.g., Lockheed FCU's) and the merging credit union's share accounts.

Given this situation, we have the following objection and changes to the suggested general change-in-terms notice to members of the merging credit union. NCUA's rules require that the change-in-terms notification include the "effective date of the change."⁴ If the effective date, which cannot be less than 30 calendar days from the date of mailing or delivery of the change-in-terms notification, is added to the suggested general change-in-terms notification, then the suggested general change-in-terms notification would be permissible. The notification should include a telephone number or other means of contacting the continuing credit union to assist merging credit union members. We would also suggest that the continuing credit union ensure that any change-in-terms will become effective under relevant state law, and is in accord with any amendment and modification of terms provisions of the merging credit union's account contracts. If you

have further questions regarding merger procedures, please contact the Division of Supervision in Region VI at telephone number (510) 825-6125.

Sincerely,

Richard S. Schulman
Associate General Counsel

cc: Daniel Murphy, Region VI Director

GC/MS:sg
SSIC 3000
95-0405, -0449

1 The Official Staff Commentary to Part 707 notes that change-in-terms notifications need not be given if the acquiring credit union does not change any terms of the merging credit union's accounts to be acquired. 12 C.F.R. Part 707, App. C, Comment 707.4(a)(1) - 2. If terms are to be changed, a change-in-terms notification must be sent before such changes can become effective. Id.

2 12 C.F.R. §707.3(a-b).

3 Your suggested general change-in-terms notification reads: The attached Truth in Savings Account Disclosure, current Rate Sheet and Schedule of Service Fees and Charges are provided to you in accordance with the Change-in-Terms notification requirements of the Truth in Savings Act. In connection with the merger, some terms and conditions relating to your account(s), as well as certain fees and charges, may be different. Please retain and review these documents in their entirety as they may directly affect certain accounts you will maintain with us.

4 12 C.F.R. §707.5(a)(1).