



DCU BULLETIN

Division of Credit Unions

Washington State Department of Financial Institutions

Phone: (360) 902-8718

FAX: (360) 704-6991

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Division Hires Special Counsel; **Compliance Matters**

Need for special counsel

Increasingly, complaints we receive from credit union members allege violations of consumer protection laws, such as the Electronic Funds Transfer Act, Truth in Lending Act, etc. Considering the complexity of these laws, we decided to arrange for special counsel so that the Division could, when necessary, seek advice on the application of these laws.

Hiring of special counsel

The Division has entered into a contract with a law firm that is highly experienced in consumer protection laws as well as credit union business practices. The contract was arranged through the State Attorney General's Office. The cost of special counsel will run about \$190 for each hour counsel spends working with the Division.

Limited use of special counsel

Our use of counsel will be limited to the complaints that involve consumer protection law violations. Of course, most of the complaints we receive do not involve such violations. In addition, many consumer protection complaints are clear-cut, and there will be no need to seek the advice of counsel in that situation.

Pass through of costs of special counsel to credit union involved

We intend to pass through the cost of special counsel to the credit union complained against, as permitted by WAC 208-418-070(3). Otherwise, all credit unions would have to absorb the additional cost of counsel as part of the Division's budget. We believe that the use of special counsel will be cheaper than hiring an attorney on staff, or devoting an examiner to consumer protection law matters.

We are sensitive to the fact that the pass through of these costs could get expensive, and we will attempt to limit the cost of counsel to less than \$750 for each complaint. We will notify the CEO of the involved credit union before we consult special counsel in regard to a complaint against the credit union.

Compliance matters

We encourage credit unions to take steps to promote compliance, including the following:

1. Hiring/sharing of compliance officer.
2. Use of knowledgeable auditor or lawyer to perform compliance audit or legal audit.
3. Annual board/management review of compliance policies and issues.
4. Top-down endorsement of the importance of compliance and the compliance function.
5. Regular compliance training for staff and management responsible for compliance issues.
6. Purchase of compliance rider on credit union bond.

Use of special counsel to advise Division on exam issues

The Division may also use special counsel to advise it on consumer protection law issues that arise during the exam process. The Division expects that use of counsel for this purpose would be fairly rare. However, costs of counsel incurred by the Division in this regard would also be passed through to the credit union involved.

Discussion with Division's Budget and Efficiency Task Force

The special counsel program was discussed at a recent meeting of the Division's Budget and Efficiency Task Force. The members of the Task Force are Bruce Kramer, Bob Harvey, Rick Brandsma, Paul Regimbal, Stacy Augustine, Fred Rose, Madeline Durham.

Please feel free to contact Parker Cann at (360) 902-8778 if you have any questions about the Division's special counsel program.