



DCU BULLETIN

Division of Credit Unions

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New Direct/Targeted Marketing Restriction Applies To All State Credit Unions

We have learned that some credit unions may not be aware of the direct/targeted marketing restriction in our new field of membership (FOM) rules.

Effective March 8, 2002, no state-chartered credit union may conduct direct marketing targeted primarily at persons in an occupational or associational group, unless one of two exceptions (discussed below) applies.

Exceptions

A state-chartered credit union (Credit Union A) may not conduct direct marketing targeted primarily at persons in an occupational or associational group unless:

(1) The group was included in the FOM bylaws of Credit Union A prior to March 8, 2002. An occupational or associational group is “included” in the FOM bylaws of Credit Union A if the underlying enterprise or organization, as applicable, is named or within an industry described in the Credit Union’s FOM bylaws. A group that does not satisfy the prior sentence, but that is within a community in Credit Union A’s FOM bylaws, is not considered “included” in the FOM bylaws of the Credit Union; or

(2) A management official of the underlying enterprise or organization has provided Credit Union A with a written statement, signed by the official, that the group desires service by the Credit Union. The management official’s letter may be received before, on, or after March 8, 2002.

Effect of restriction

If Credit Union A wishes to conduct direct/targeted marketing to persons in an occupational or associational group, **the Credit Union must assure itself that it satisfies one of the two exceptions noted above in regard to the group.** The exceptions were drafted so that credit unions could look to their own records to determine if an exception exists.

If, after reviewing its records, Credit Union A determines that it does not satisfy the first exception, it must obtain a written statement signed by a management official of the group, stating that the group desires the Credit Union's service, before undertaking direct/targeted marketing to the persons in the group.

In order to satisfy the second exception, Credit Union A may have to obtain a management official's letter even though the Credit Union conducted direct/targeted marketing to the group prior to March 8, 2002. For example, suppose Credit Union A was conducting direct/targeted marketing to an occupational group in a community in its FOM before March 8, 2002, but the group was not included in its FOM bylaws and the Credit Union did not have a management official's letter requesting service on file. Under the new FOM rules, Credit Union A would have to obtain a management official's letter before continuing with direct/targeted marketing to the persons in the group.

Credit unions should maintain centralized documentation to support their direct/targeted marketing.

Why the restriction?

As we were receiving input on the preliminary rule draft, several credit unions expressed concern that some credit unions may, under the new rule, aggressively market to groups already served by another credit union. These concerned credit unions urged the Division to add a direct marketing restriction to the rule. In response to these concerns, we included the direct/targeted marketing restriction in the final rule.

As we began drafting the restriction, we realized that in fairness it should apply to all credit unions and, frankly, that it would become quite complicated if it did not. So the final rule includes a prohibition on direct/targeted marketing applicable to all credit unions, with two exceptions. The exceptions were drafted so that credit unions may look to their own records to determine if an exception exists.

If you have questions about this Bulletin, please contact Sue Graham at (360) 902-8816 or sgraham@dfi.wa.gov.