

National Association of Federal Credit Unions
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September 29, 2008

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, Northwest
Washington, DC 20551

RE: Comments on Docket No. R-1325; Regulation S (R F P A)

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (N A F C U), the only trade association that exclusively represents the interests of our nation's federal credit unions (F C U's), I am writing in response to the request for comment on the Board of Governors of the Federal Reserve System's (Board) proposal to amend Subpart A of Regulation S, which implements the Right to Financial Privacy Act (R F P A), to revise the rates and conditions for payment by a government authority to a financial institution for assembling or providing financial records pursuant to R F P A. The proposal would update the fees to be charged in light of recent advances in the production of electronic documents.

N A F C U generally supports the proposed amendments. In the twelve years since the Board's last revision of Subpart A of Regulation S, much has changed in the realm of document retention and production. Indeed, electronic and digital technology has evolved precipitously since 1996 and we welcome the Board's action to bring the regulation up to date with today's rapidly changing IT environment. However, N A F C U would like to provide a number of suggestions as detailed below.

First, while N A F C U is supportive of the updates to the labor rates for the chargeable personnel fees, we believe that the proposed rates might be somewhat low. In particular, N A F C U believes that the proposed rates fail to adequately consider benefits costs, which are growing at a significant rate. Under the proposal, rates have been adjusted for benefits using the standard benefit formula set out in the Bureau of Labor Statistics (B L S) survey; however, this adjustment may be insufficient, particularly in costlier geographic regions and/or more competitive labor markets.

Second, N A F C U strongly supports the inclusion of a mechanism to periodically and automatically adjust the Search and Processing reimbursement rates for personnel costs set forth in the fee schedule. However, we recommend that this mechanism adjust the hourly rates at fixed three-year periods, as opposed to five-year increments as proposed. In the modern labor market wages are increasing dramatically, particularly in the fast-moving technology field. As such, N A F C U believes it is appropriate for personnel rates to be revisited more frequently than the proposed five-year adjustment.

Third, we agree with the removal of the "per diskette" charge in favor of a flat fee "per electronic production," but N A F C U believes that the \$5.00 charge is too low. While this might be sufficient for email transmissions, this uniform fee would not be adequate to cover the cost of electronic storage media plus mailing costs. Similarly, the \$0.25 charge per page for information provided in paper form is inadequate. Thus, N A F C U recommends that the allowable charge be increased.

Finally, N A F C U would like to share our observation that credit unions often experience challenges in collecting reimbursements for their production of financial records pursuant to the R F P A. Accordingly, we urge the Board to seek ways to encourage greater compliance with the regulation, including vigilant enforcement of not only the substantive protections under Regulation S, but the reimbursement provisions as well.

N A F C U appreciates the opportunity to comment on this proposed rulemaking. Should you have any questions or require additional information please call me at (703) 522-4770 or (800) 336-4644 ext. 218.

Sincerely,

signed. Pamela Yu
Associate Director of Regulatory Affairs