

How to Use This Manual

The purpose of this manual is to provide credit union management and staff with an understanding of how the rules of Articles 3, 4, and 4A of the Uniform Commercial Code (UCC) affect the way credit unions handle member share draft accounts, the collection and processing of share drafts, and wire transfers. The specific provisions of the UCC are discussed and applied to fact scenarios that credit unions routinely encounter. Electronic fund transfers, and how members may use them, are also discussed.

Chapter 1 of the manual explains the nature of the UCC and how a great many credit union transactions lie within the scope of the UCC. It focuses on the unique nature of credit unions and on how a credit union's account agreement and other laws affect the UCC. It also reviews the basic credit union accounts. Chapter 2 introduces the reader to the terminology of the UCC, including the concept of negotiability, the parties to a negotiable instrument, and who has the right to enforce a negotiable instrument.

Chapter 3 discusses the liability of credit unions and their members on negotiable instruments and outlines the various forms of liability under UCC Article 3. It also discusses how such liability may be discharged. Chapter 4 focuses on the relation of a credit union to its members under the provisions of UCC Article 4. It discusses when a credit union can charge a member's account and what a member's duties and responsibilities are to a credit union.

Chapter 5 discusses some of the special problems that credit unions face in dealing with member share draft accounts, including altered share drafts and forged member signatures. Chapter 6 reviews UCC rules concerning stop payments on share drafts. In particular, stop payment requests on member share drafts and credit union share drafts are discussed. In addition, this chapter discusses a credit union's liability for wrongful dishonor of share drafts and events which suspend a credit union's duty to pay a member's share draft.

Chapter 7 reviews the collection process under UCC Article 4, including general principles of the process and the various responsibilities of a credit union as depositary, collecting, and payor bank under the UCC. Chapter 8 continues the discussion of the collection process by focusing on Regulation CC. This chapter discusses the requirements of the regulation regarding funds availability, forward collection and return of items, and the preemptive provisions of the

regulation over conflicting provisions of the UCC. In addition, this chapter reviews the collection of checks under Regulation J and the handling of checks by Federal Reserve Banks.

Chapter 9 discusses funds transfers under UCC Article 4A. The chapter reviews the key definitions of Article 4A and the obligations of a credit union once it has accepted a member's request to transfer funds. Chapter 9A reviews the credit union's obligations under the Electronic Fund Transfer Act and Regulation E if it offers electronic fund transfer services to members as an alternative to share draft transactions. Electronic transactions processed through the automated clearinghouse network are discussed in Chapter 9B. Chapter 9C discusses the provisions of the Bank Secrecy Act along with a credit union's reporting and recordkeeping requirements. A credit union's obligation to comply with regulations from the Office of Foreign Assets Control is discussed in Chapter 9D. Chapter 10 addresses member privacy and confidentiality issues under the Right to Financial Privacy Act, NCUA's final rule on privacy and the safeguarding of member information. Chapter 10A reviews the basics of share insurance coverage of member accounts. Chapter 11 discusses the issue of check fraud and provides procedures credit unions can implement to reduce their check fraud losses. Chapter 12 discusses account types and the fees credit unions may charge for share draft services.

Several appendixes can be found in the accompanying CD that should help you use the materials in each chapter. Appendix A contains revised Articles 3, 4, and 4A of the UCC as adopted by the State of Connecticut pursuant to Title 42a of its general statutes. Appendix B1 contains the text of Regulation CC and Appendix B2 contains the text of the Check 21 Act. Appendix C contains the text of Regulation J. Appendix D contains the text of the Bank Secrecy Act regulations (31 CFR 103). Appendix E contains the Right to Financial Privacy Act; the Privacy of Consumer Information: Small Credit Union Compliance Guidance; the Privacy of Consumer Financial Information Examination Program; and the Federal Regulatory Agencies Joint Release: Guidance on Financial Privacy. Appendix F contains the text to Regulation E. Appendix G contains the NCUA publication "Your Insured Funds." Appendix H contains guidance on collection of cash items and returned checks, ACH items, and funds transfers through Fedwire. Appendix I contains the Foreign Assets Control Regulations for the Financial Community, the Federal Reserve's Guidance on Enhanced Scrutiny for Transactions That May Involve Proceeds of Foreign Official Corruption, and the Federal Reserve's Guidance on the USA PATRIOT Act and the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001. An updated version of FFIEC's *BSA/AML Examination Manual* can be found in Appendix J.

The aim of this manual is to provide credit union staff with a primer for analyzing issues that arise in the processing of share drafts and the handling of share draft accounts, wire transfers, and

electronic fund transfers. There is no doubt that the UCC is a complex body of law. The answer to any legal issue arising from a share draft transaction will normally come from several sections of the UCC. No section of the UCC really stands alone. This manual is organized to assist credit union staff in understanding the terminology of the UCC and then in applying the technical “lingo” of the UCC to everyday credit union problems.

However, and as a word of warning, the UCC is state law. As such, the general rules outlined in this manual may be different in the jurisdiction of a particular reader. It is imperative that you ensure that the governing provision listed in this manual corresponds to the actual law adopted in your state.