The National Credit Union Administration has been less aggressive than the OCC and the OTS in preempting state laws. Nonetheless, the Federal Credit Union Act and NCUA regulations under it preempt some state laws governing deposit accounts. The Dodd-Frank Act did not revise the preemption standard governing the Federal Credit Union Act, but the same Barnett Bank preemption standard should apply to state laws that apply to federal credit unions.²⁵⁶

In credit union parlance, deposits are called “shares” of the credit union of which a customer is a member. NCUA has stated that, consistent with federal law and its contractual obligations, a federal credit union may “determine the types of fees or charges and other matters affecting the opening, maintaining and closing of a share, share draft or share certificate account. State laws regulating such activities are not applicable to federal credit unions.”²⁵⁷

NCUA has also issued letters preempting state laws governing check-cashing fees²⁵⁸ and other issues.²⁵⁹

However, NCUA has made clear that federal credit union subsidiaries, referred to as credit union service organizations (CUSOs), must comply with state law.²⁶⁰

Footnotes

²⁵⁶ [244] See § 1.5.2 [1], supra.


Preemption of state law governing loans and interest rates is in another NCUA regulation, 12 C.F.R. § 701.21(b). See National Consumer Law Center, Consumer Credit Regulation § 3.3 [2] (2d ed. 2015), updated at www.nclc.org/library.

²⁵⁸ [246] NCUA Legal Opinion Letter No. 07-0743 (Aug. 7, 2007) (preempting Georgia law’s prohibition on charging fees to non-accountholders cashing share drafts drawn on federal credit unions).
