

NCUA LETTER TO CREDIT UNIONS

**NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314**

DATE: December 2005 **LETTER NO.:** 05-CU-21

TO: Federally Insured Credit Unions

SUBJ: Overdraft (Courtesy Pay) Programs

ENCL: AIREs Payment of Overdrafts (Bounce Protection) Questionnaire

Dear Board of Directors:

In February 2005, NCUA published Letter to Credit Unions 05-CU-03, *Overdraft Protection (Bounce Protection) Programs*, to provide guidance for the operation of non-contractual overdraft products.

Unlike traditional lines of credit, non-contractual overdrafts do not require individual underwriting or written agreements. This service, which is often referred to as bounce protection or courtesy pay, charges members a per item fee for honoring drafts or other transactions that overdraw a share account.

The risks and benefits associated with non-contractual overdrafts (courtesy pay) should be carefully evaluated by a credit union before offering the service. While courtesy pay may assist infrequent users in avoiding the inconvenience and merchant fees associated with returned checks, repeat use of courtesy pay can result in high aggregate fees that negatively impact a member's financial position.

In addition to complying with the guidance previously published in Letter to Credit Unions 05-CU-03, credit unions offering courtesy pay services must comply with regulatory requirements, including those established by Part 707, *Truth in Savings Act*. Effective July 1, 2006, Part 707 requires credit unions that promote courtesy pay services to provide additional disclosures on account statements.

Credit unions offering courtesy pay to members must provide clear and conspicuous disclosures about the cost of this service. In addition, to promote

thrift and fiscal responsibility, credit unions should educate members about program details and less expensive options.

While credit unions must comply with the disclosure requirements of Regulation Z (Truth in Lending Act), courtesy pay services generally qualify for an exception to these requirements. Federal credit unions are subject to Section 701.21 of the NCUA Rules and Regulations, which requires overdrafts to be repaid in no more than 45 days. Should a credit union convert an overdraft to an underwritten loan to extend the repayment period, that loan must comply with the disclosure requirements of Regulation Z. State law may impose other requirements for prompt collection on federally insured state credit unions.

In coming months, NCUA examiners will look closely at courtesy pay programs. Enclosed, please find a copy of the AIREs questionnaire that will be used by NCUA examiners to evaluate non-contractual overdrafts. You may find the questionnaire helpful when evaluating your own courtesy pay or bounce protection program.

If you have questions regarding the enclosed questionnaire, please contact your district examiner, regional office, or state supervisory authority.

Sincerely,

/s/

JoAnn Johnson
Chairman

Enclosure