

	A	B	C	E
3	Ln - Payment of Overdrafts (Bounce Protection)			
4	INTRODUCTION AND PURPOSE			
5	GUIDANCE			
6	Regulatory References			
7			Yes/No	Comments
8	Risk Assessment / Scoping			
9	1.0.0	Does the credit union advance funds to pay share overdrafts without a contractual agreement?		
10	2.0.0	Does the credit union charge a fee for extensions of credit through bounce protection to cover share overdrafts?		
11	3.0.0	Does the credit union advertise the availability of bounce protection, courtesy pay, or another type of share overdraft payment program which doesn't rely on a written contract?		
12	If questions 1 to 3 were all answered "No", stop. The credit union does not appear to be offering bounce protection services for the payment of overdrafts.			
13	Policy			
14	4.0.0	Has the board of directors established a written policy addressing the payment of overdrafts through bounce protection? R&R 701.21(c)(3)		
15	4.0.a	Does this policy set a cap on the total dollar amount of bounce protection advances that the credit union will extend, which is consistent with the credit union's ability to absorb losses? R&R 701.21(c)(3)		
16	4.0.b	Does this policy establish a time limit not to exceed forty-five calendar days for a member to deposit funds or to obtain an underwritten loan from the credit union to cover each overdraft paid by bounce protection? R&R 701.21(c)(3)		
17	4.0.c	Does this policy limit the dollar amount of bounce protection overdrafts the credit union will honor per member? R&R 701.21(c)(3)		
18	4.0.d	Does this policy establish the fee to be charged members for use of bounce protection? R&R 701.21(c)(3)		
19	4.0.e	Does this policy require the notification of members when an advance is taken through bounce protection?		
20	Disclosure and Communication			
21	5.0.0	Are members automatically enrolled in the bounce protection program? If No, continue to question 6.		
22	5.0.a	Are members notified about their enrollment in bounce protection?		
23	5.0.b	Are members provided with the opportunity to opt-out?		
24	6.0.0	Has the credit union clearly disclosed program fees?		
25	6.0.a	Does the credit union describe the bounce protection program as "free"?		
26	6.0.b	Is the total dollar amount imposed for bounce protection fees and the total dollar amount imposed for returned fees shown on the periodic account statement?		
27	Accounting			
28	7.0.0	Does the credit union report outstanding share overdrafts (which were paid through bounce protection) as unsecured credit on the quarterly call report?		

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29	8.0.0	Does the credit union disclose a specific amount of available bounce protection funds to members?		
30	8.0.a	Is the unused portion of the disclosed bounce protection credit line reported as an "unused commitment" on the quarterly call report?		
31	9.0.0	Are unpaid bounce protection overdraft amounts charged off against the Allowance for Loan and Lease Losses?		
32	9.0.a	Are unpaid bounce protection fee amounts charged off against income collected from the bounce protection program?		
33	9.0.b	After bounce protection overdrafts are charged off, are member payments recorded as recoveries and posted to the ALLL?		
34	10.0.0	Does the credit union aggregate the unused limits and reserve for this "pool" based on past loss experience?		
35	Third Party Service Providers			
36	11.0.0	Is the bounce protection program managed by a vendor or other third party? If no, skip to question 13.		
37	11.0.a	Does the credit union set the parameters used to determine whose overdrafts will be paid?		
38	11.0.b	Is bounce protection available to members that are delinquent on loan obligations?		
39	12.0.0	Does the vendor receive a percentage of income generated by the product?		
40	12.0.a	Is vendor payment dependent upon the collection of fees charged to the members?		
41	12.0.b	Is vendor payment dependent upon a minimum level of usage by credit union members?		
42	Reputation			
43	13.0.0	Does the credit union have express consent from social security or SSI recipients for the repayment of funds advanced through bounce protection?		
44	14.0.0	Does the credit union provide counseling or advise members of other options once a set number of overdrafts has been paid through bounce protection?		
45	Compliance			
46	15.0.0	When an item is paid through a bounce protection advance, does the credit union charge both a NSF fee and a bounce protection advance fee?		
47	16.0.0	Is the fee for a bounce protection advance greater than the non-sufficient funds (NSF) fee charged by the credit union?		
48	17.0.0	Does the credit union report on bounce protection programs to credit reporting agency (credit bureau)?		
49	17.0.a	When credit union reports charged off bounce protection advances, are unpaid bounce protection fees included in the reported amount?		

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50	18.0.0	When the credit union converts an unpaid bounce protection advance to a written loan, are the disclosures required by Regulation Z provided?		

Cell: A4

Comment: Credit unions may extend unsecured credit to members to cover or to prevent deficiency balances in share accounts. This type of advance may be supported by a traditional line of credit or by a new product, which is often referred to as "courtesy pay" or "bounce protection". These programs provide for the payment of a check or electronic draft that would otherwise be returned due to non-sufficient funds (NSF). Payment of an item by the credit union creates an overdraft, for which the credit union assess a fee. The typical bounce protection program differs from an overdraft line of credit in that the program is automated and the borrowing privilege is extended to all members, who meet certain objective criteria.

Unlike traditional lines of credit, bounce protection programs do not require individual underwriting or written agreements. Instead, credit unions choose to honor overdrafts, up to an aggregate dollar amount, on an automated basis. The program is, therefore, also different from the more traditional, occasional "ad hoc" overdraft payment that a credit union may make for select members. Members are charged a per item fee for this "ad hoc" service, and outstanding amounts must be repaid quickly.

Cell: A5

Comment: NCUA, FDIC, FRB, and OCC jointly issued guidance addressing bounce protection programs on February 24, 2005. This joint guidance statement titled, Agencies Issue Final Guidance on Overdraft Protection Programs, establishes best practice expectations for the responsible disclosure and operation of bounce protection programs.

NCUA published Letter to Credit Unions 05-CU-03, Overdraft Protection (Bounce Protection) Programs, in February 2005. It includes a copy of the joint guidance statement.

Cell: A6

Comment: For federal credit unions, requirements for and limits on unsecured loan obligations, including overdrafts, are discussed in Section 701.21(c)(3) of the NCUA Rules and Regulations. The joint guidance statement supplements, but does not change, these regulatory requirements for federal credit unions.

For federally insured state credit unions, restrictions and limits on unsecured loan obligations are established through state law. Some states have issued specific guidance and/or enacted legislation addressing bounce protection products.

All credit unions should establish sufficient limits and controls over unsecured loan programs to allow for safe and sound operation of these programs. As discussed in the joint guidance paper, debts generated as a result of the payment of overdrafts should be repaid, converted to a contractual obligation, or charged off on a timely basis.

Cell: B9

Comment: When a check or other debit (ATM, POS, etc) is presented and an account lacks sufficient funds to pay the item, a credit union may choose to honor the item and overdraw the member's account. This results in a negative share balance, often referred to as an overdraft.

A member is expected to know the available balance in his account before instructing the credit union to pay an item (through a check, POS, etc). When a member directs a credit union to make payment and there are not sufficient funds in his account, the credit union may still elect to pay an item as instructed by the member. The payment of this item creates a legal obligation on the part of the member to repay the debt.

Cell: B11

Comment: NCUA does not object to the advertisement of these products. However, credit unions should be aware that promotion of non-contractual loan products may contribute to reputation risk.

Best practice - Credit unions should take additional care to clearly explain the costs, availability, and features of non-contractual loan products.

Cell: B14

Comment: Section 701.21(c)(3) of NCUA Rules and Regulations requires the adoption of a written overdraft policy before a federal credit union can cover an account deficit without having a credit application from the borrower on file.

The written policy must address: the dollar amount of overdrafts, per member and aggregate, to be honored; time limits to deposit funds or obtain a loan to cover the draft (not to exceed 45 days); amount of fee to be charged, if any, for honoring overdrafts.

Board members cannot be given preferential treatment through waived or reduced fees.

Cell: B16

Comment: For federal credit unions, requirements for and limits on unsecured loan obligations are discussed in Section 701.21(c)(3) of the NCUA Rules and Regulations. Unless a loan is written off as a loss, this section requires the repayment of overdrafts or conversion of an overdraft to a written loan contract within 45 days from the advance of funds.

For federally insured state credit unions, restrictions and limits on unsecured loan obligations are established through state law. Some states have issued specific guidance and/or approved legislation addressing bounce protection products. Unless a loan is written off as a loss, the interagency guidance sets expectations for the repayment of overdrafts or conversion of an overdraft to a written loan contract within 60 days from the advance of funds.

As a general practice, all credit unions should establish sufficient limits and controls over unsecured loan programs to allow for safe and sound operation. Usually, loans should be repaid in less than 30 days. And, as discussed in the joint guidance paper, bounce protection loans should be repaid, converted to a contractual obligation, or charged off on a timely basis.

Cell: B19

Comment: Best practice.

Cell: B22

Comment: Best practice - Members should be notified of their participation in bounce protection loan programs if the program is automatically made available to all members.

Cell: B23

Comment: Best practice - Members should be provided with a clear and understandable method to opt-out (elect not to use) of the program.

Cell: B24

Comment: Credit unions must include bounce protection loan advance fees on the list of fees disclosed to members. This is required by Regulation DD, Truth in Savings, as codified in Part 707 of the NCUA Rules and Regulations.

Cell: B25

Comment: Accounts that have a bounce protection feature may only be described as “free” if: there is no maintenance or service charge associated with the account, and the credit union does not promote or advertise the availability of the program. The limitation on advertisement will become effective in July 2006, with the revision of Part 707 of the NCUA Rules and Regulations.

Best Practice – Do not describe these programs as “free”.

Cell: B26

Comment: Beginning July 2006, for credit unions that promote or advertise the availability of their bounce protection loan program, total bounce protection loan fees and total returned item fees must be disclosed on the periodic statement provided to the member. These amounts must be shown for both the statement period and year-to-date. See the 2005 amendment to Regulation DD, Truth in Savings, which will be incorporated into Part 707 of the NCUA Rules and Regulations in December 2005.

Best practice - Credit union discloses fee totals for statement period and calendar year, regardless of program advertisement.

Cell: B29

Comment: Disclosure of a specific dollar amount establishes a reasonable expectation that credit is available up to that amount.

Cell: B30

Comment: When a credit union communicates an available bounce protection limit to members, a reasonable expectation of credit is established. The unused portion of this credit must be reported on the quarterly call report as an "unused commitment".

For example, if the credit union states "\$500 in overdraft protection is available to a member", a member uses \$300, \$200 in credit remains and should be reported as an unused commitment.

Cell: B31

Comment: Losses from bounce protection loan program should be written off against ALLL.

Cell: B34

Comment: This is not a requirement.

Best practice - If the loan program is material, the credit union may wish to establish a reserve for potential losses on unused credit.

Cell: B37

Comment: Credit unions should retain control over the parameters used to determine when overdrafts will be paid. This is a lending decision, and a credit union's board of directors should not delegate loan decisions to outside parties.

Best practice – Credit union should conduct periodic due diligence tests of parameters to determine actual criteria match criteria applied by third party.

Cell: B39

Comment: Some vendors waive all or part of processing fees in exchange for a portion of fee income. NCUA does not object to this practice.

Cell: B40

Comment: Linking vendor income and payments to collected fees provides the vendor with an incentive to support criteria that ensure timely repayment of overdrawn accounts.

Cell: B41

Comment: Vendor compensation arrangements that are linked solely to fee income (which is based on member usage of the product) may create an incentive toward maximizing member use of the product. Maximizing member use has the potential to harm members, through excessive costs or reinforcement of poor account management practices.

Best practice - If significant member costs are incurred due to habitual use of the product, credit union should restrict member access to product, refer to less expensive products, and/or provide counseling.

Cell: B43

Comment: In some states, certain income sources (such as social security or SSI) are "protected" and may not be automatically accessed and applied by the credit union against an outstanding bounce protection loan unless express (written) permission is received from member. These state laws would apply to both federal and state credit unions.

Cell: B44

Comment: Best practice - Credit unions should promote thrift and prudent account management practices by providing counseling on account management, directing members to lower cost products, if eligible, or advising members of other available options.

When significant member costs are being incurred due to repeat (habitual) use of the bounce protection loan product, this may be a "red flag" indicating a lack of member understanding about the costs of the product. When used on an occasional basis as a protection against inadvertent overdrafts, the bounce protection loan product can offer value by eliminating time spent working with merchants to "make good" on rejected checks. However, if a member continually accesses the product (regular user), cost of the product can become excessive and the member can be caught in a downward spiral leading to financial hardship.

Cell: B46

Comment: If both a loan fee and a NSF fee are charged when an overdraft is cleared, the bounce protection loan program may not be exempt from Regulation Z disclosures.

Most credit unions offering bounce protection programs arrange to have a single NSF fee assessed whether the item is returned or paid. Doing so enables the credit union to claim an exception, under Regulation Z, to the regulation's disclosure obligations. This exception is further discussed in the joint guidance paper under the heading, "Truth in Lending Act".

Cell: B47

Comment: Where the fee assessed for payment of an overdraft is equal (or less) than the non-sufficient funds fee assessed when an item is returned unpaid, the loan fee is not considered a finance charge under Regulation Z.

Please note there is more than one basis for a credit union to assert that a bounce protection loan program fee is not a finance charge for purposes of compliance with Regulation Z. The joint guidance paper contains additional information about the application of Regulation Z under the heading, "Truth in Lending Act".

Cell: B48

Comment: Best practice - To ensure members are able to establish credit records for successful repayment of bounce protection amounts, credit unions should consider reporting on both timely and delinquent repayment patterns.

Cell: B49

Comment: Unpaid loan fees should be reversed against fee income and not included in charged off amounts.

Cell: B50

Comment: As discussed in the joint guidance, appropriate Regulation Z disclosures must be provided to the member when the loan is converted to a contractual repayment obligation, which is to be repaid in more than 4 installments or is subject to a finance charge.