

September 20, 2005

Greg Badovinac, Compliance Officer  
Western Federal Credit Union  
P.O. Box 10018  
Manhattan Beach, CA 90267

Re: Overdraft Regulations and Guidance.

Dear Mr. Badovinac:

You have asked if a provision establishing a 45-day time limit in NCUA's overdraft regulation for federal credit unions (FCUs) is consistent with a 60-day time limit in the Joint Guidance on Overdraft Protection Programs (Guidance) issued by NCUA and the federal banking agencies. 70 Fed. Reg. 9127, Feb. 24, 2005. The two provisions trigger different actions and, therefore, are not inconsistent.

NCUA's overdraft regulation provides that an FCU can "advance money to a member to cover an account deficit without having a credit application from the borrower on file if the [FCU] has a written overdraft policy." 12 C.F.R. §701.21(c)(3). The regulation establishes criteria for an FCU's policy, including that it must "establish a time limit not to exceed [45] calendar days for a member either to deposit funds or obtain an approved loan from the [FCU] to cover each overdraft." *Id.* The regulation does not establish a time limit by which the FCU must charge off the overdraft balance.

The NCUA, Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation jointly issued the Guidance to address the administration of overdraft protection programs and related disclosure obligations. NCUA issued the Guidance to all federally insured credit unions as an enclosure in its Letter to Credit Unions No. 05-CU-03, "Overdraft Protection (Bounce Protection) Programs," dated February 2005.

The Guidance provides that a depository institution should generally charge off overdraft balances when it considers them uncollectible and should do so no later than 60 days from the date the customer overdrew the account. Guidance, p. 8. The charge-off should occur when the debt appears uncollectible, even if this is before the 60 days has lapsed. The Guidance is not inconsistent with NCUA's regulation requiring FCUs to establish a time limit of 45 days or less for a member to either deposit funds or obtain an approved loan. 12 C.F.R. §701.21(c)(3).

Mr. Greg Badovinac  
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Finally, we note that NCUA has issued additional guidance for a federally insured credit union's charge-off policy for uncollectible loans in NCUA Letter to Credit Unions No. 03-CU-01, "Loan Charge-off Guidance," dated January 2003, that you may find helpful on this issue.

Sincerely,

/s/

Sheila A. Albin  
Associate General Counsel

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