

# Cooperative Credit Union Association

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*Creating Cooperative Power*

February 17, 2021

Ms. Melane Conyers-Ausbrooks  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

**RIN 3133– AF20**

**Re: Cooperative Credit Union Association Inc.’s Comments on Proposed Rule: Overdraft Policy**

**BY ELECTRONIC MAIL: <http://www.regulations.gov>**

Dear Ms. Conyers-Ausbrooks:

On behalf of the member credit unions of the Cooperative Credit Union Association, Inc. (“Association”), please accept this letter relative to the request for comments issued by the National Credit Union Administration Board (“NCUA”) on a proposed rule (“proposal”) relative to overdraft policy requirements. The Association is the state trade association representing approximately 200 state and federally-chartered credit unions located in the states of Delaware, Massachusetts, New Hampshire, and Rhode Island which further serve over 3.6 million consumer members.

## **I. Overview**

The thrust of the proposal is to modernize requirements related to overdraft policies. Specifically, the rule would remove the 45-day limit and replace it with a requirement that the written policy must establish a specific time limit for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft. In essence, it seeks to permanently amend one of the requirements that a federal credit union must adopt as a part of their written overdraft policy<sup>1</sup>. While it is not a mandate for change, the proposal allows for a time limit which may exceed 45 days. The proposed rule also directs that any replacement policy

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<sup>1</sup> Specifically, §701.21(c)(3) requires that an FCU’s written overdraft policy must: (1) Set a cap on the total dollar amount of all overdrafts the credit union will honor consistent with the credit union’s ability to absorb losses; (2) establish a time limit not to exceed 45 calendar days for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft; (3) limit the dollar amount of overdrafts the credit union will honor per member; and (4) establish the fee and interest rate, if any, the credit union will charge members for honoring overdrafts.

establishes a specific time limit that is, reasonable, applicable to all members, and consistent with U.S. GAAP. NCUA is also proposing to amend §701.21(c)(3) to add a cross-reference to Regulation E.

## **II. Support of Overdraft Credit Union Overdraft Programs and Proposal**

The Association supports the availability of carefully crafted, consumer-focused, overdraft programs offered by credit unions as a tool to help members better manage daily finances. Credit union mission driven financial education, a program rooted in financial inclusion, distinguish this offering in the marketplace. Accordingly, the proposal is supported to help assist in fulfilling this goal.

Unlike traditional lines of credit, non-contractual overdrafts do not require individual underwriting or written agreements. This service, which is often referred to as overdraft, 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 are carefully evaluated by Association members offering the service. While courtesy pay assists infrequent users in avoiding the inconvenience and merchant fees associated with returned checks, credit unions are alerted and sensitive to repeat use of courtesy pay which can result in high aggregate fees that negatively impact a member's financial position. To promote thrift and fiscal responsibility, credit unions educate members about program details and as well as less expensive options.

It should be noted that consumer protections are also available to members using overdraft services. Credit unions offering courtesy pay to members must provide opt-in and clear and conspicuous disclosures about the cost of this service. Under circumstances in which a credit union converts an overdraft to an underwritten loan to extend the repayment period, that loan must comply with the disclosure requirements of Regulation Z and any applicable state laws. Finally, regulatory examiners look closely at courtesy pay programs.

## **III. Impact of Proposed Change**

As the NCUA noted in the proposal, it is imperative that federal credit unions “have the flexibility to work with their members to take positive and proactive actions that can manage or mitigate adverse impacts on members while maintaining safe-and-sound operations.” 89 Fed. Reg. 3878 (January 15, 2021). Association members agree. The most beneficial aspect of the proposal is the removal of a barrier and freedom to work with members to manage daily finances when it is needed most.

While the current economic climate provides the best evidence of the need for the proposal, the Association notes that such positive change will also provide sound options for credit unions to benefit members during any natural disaster, as well as, on-going member financial hardships.

**IV. Other Issues**

The proposal also seeks comments on changes made by credit unions to overdraft programs to mitigate the impact of the pandemic on members, such as reducing or eliminating overdraft or insufficient funds fees. In response to member surveys to assess the impact of the pandemic, the Association can confirm that both a reduction and elimination of overdraft fees have been offered by members to their members as paths to minimize financial loss during the pandemic. While only one aspect of balancing financial wellness, it was one of the first steps taken in March 2020 and continues as needed.

**V. Conclusion**

Thank you for the opportunity to share views on the proposal relative to overdraft policy requirements. If you have any questions about the recommendations set forth in this comment letter or require further information, then please do not hesitate to contact the Association at [govaff-reg@ccua.org](mailto:govaff-reg@ccua.org).

Sincerely,



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RM/mac/kb