

Setting Policies at the Board Level

BOARD OF
DIRECTORS



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Agenda

- What is a Policy?
- Guidance
- Policies vs. Procedures
- Writing Policies
- Resources
- Required Policies



What is a Policy?

Helping Credit Unions
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A definite course or method of action selected from among alternatives and in light of given conditions **to guide and determine present and future decisions.**

Merriam-Webster



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Credit Union Guidance

Helping Credit Unions
Serve, Grow and Remain Strong.

Policies contain the rules, guidelines and strategic goals that a credit union follows to govern its actions.

Policies are the guiding principles that give direction to the employees of a credit union.



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NCUA Guidance

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Policies direct the credit union's activities.

Procedures represent the methods by which the credit union implements the policies.



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NCUA Guidance

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The NCUA Examination Guide (Management Chapter) provides guidance to credit unions and instructs that “The Board adopts policies to direct the credit union’s activities.”



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NCUA Guidance

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The Board of Directors must approve all major policies; and

The Board should review and update policies annually.



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Policy versus Procedure

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Policies vs. Procedures

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Policies

- *Provide broad, general Board of Director guidance.*
- *Direct decision making.*
- *Integral part of a credit union's strategy.*

Procedures

- *Step by step instructions to conduct daily credit union practices.*
- *Guide employee actions.*
- *The process that is followed to achieve strategic goals.*



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Policies vs. Procedures

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Policies

- *The “what” or the “why”*
- *Scrutinized and reviewed by the regulators.*
- *Operational Framework*
- *Changes need Board approval*

Procedures

- *The “how”*
- *Process used to implement the policies*
- *Provided in a “management” voice to assist employees in meeting operational requirements*



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Policies vs. Procedures

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Why is the distinction important??

By mixing policies and procedures, it could be putting you – the Board, at risk. Board members typically don't have the level of operations background that management has. Therefore, including specific, procedural related information in policy for approval is potentially beyond your level of expertise. This puts the Board in a difficult position to be approving something you don't have the expertise in. As opposed to general guidelines on a topic.



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Policies vs. Procedures

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Example:

Cash Management Policy

- Policy – will specifically address cash limits for the teller drawers and vault, along with relevant controls.
- Procedures – will provide step by step instructions on how a teller will balance their cash drawer and what steps to take in the event that a cash shortage or overage exists.



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Writing Policies



Writing Policies

Don't reinvent the wheel! Look for sample policies:

- PolicyPro
- InfoSight
- CUNA
- Listserv



Writing Policies

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Know what needs to go in the policy:

- Is there a regulation requiring the policy?
- Is there a Letter to Credit Unions outlining what NCUA expects to see in the policy?
- Is there specific state guidance, requirements or laws?



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Writing Policies

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As the Board of Directors, you set the tone.

- How would you communicate with the credit union on this topic?
- Is the policy in your voice?



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Writing Policies

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Policy Contents:

- General Policy Statement
- Definitions
- Guidelines
- Requirements



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Resources

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- An online policy system that contains more than 300 detailed policies.
- Ability for the credit union to customize policies and store within the system.
- Publishing tool allows selected policies to be compiled into a PDF format for read-only access.
- Ability to post information on the home page specific to access level (Manager, Employee, Board)

The screenshot displays the CU Policy PRO interface. On the left, a sidebar lists various policy categories such as 'General Policy', 'Credit Policy', 'Risk Policy', and 'Operational Policy'. The main area shows a specific policy document titled 'Model Policy 7301: Registration of Mortgage Loan Originators (S.A.F.E. Act)'. The document includes a 'General Policy Statement' and a 'Guidelines' section. Below the document, there is a 'Welcome back, Glory' message and a sidebar with navigation options: 'Manual Builder', 'Library', 'Storage', 'Administration', 'Change Password', and 'Logoff'. The 'Manager Manuals' and 'Manager Resources' folders are currently empty.

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This screenshot shows the CU Policy PRO interface with annotations. A red arrow points to the 'Edit and customize content' button, and another red arrow points to the 'Publish content for users' button. The interface includes a sidebar with a search bar and a list of policy categories. The main area displays a policy document titled 'Model Policy 7301: Registration of Mortgage Loan Originators (S.A.F.E. Act)'. Below the document, there is a 'Welcome to the Library!' message and a sidebar with navigation options: 'Manual Builder', 'Library', 'Storage', 'Administration', 'Change Password', and 'Logoff'. The 'Manager Manuals' and 'Manager Resources' folders are currently empty. A red arrow points to the 'Newsletter Archive' and 'Quarterly Updates Guides' section in the bottom left corner.

Resources



Compliance Information

- Covers 15 major compliance areas.
- Provides a summary of the regulations that apply to areas of operations.
- Links to applicable laws/regulations.

Dormant or Inactive Accounts: Summary

Last Reviewed: January, 2014

A dormant account or inactive account is a policy initiative created by the credit union to eliminate (close) the unutilized accounts by members who are not participating in the financial health and growth of the credit union.

The terms dormant account or inactive account are synonyms used by credit unions to identify and describe accounts that are not being used by their members that contain a nominal amount of funds.

The reason that credit unions implement and utilize dormant/inactive account policies is because the annual maintenance cost of every account at the credit union ranges anywhere from \$80 to \$120 a year (e.g., for staff time, statement preparation and mailing, database maintenance, etc). Given this expense, it is a disservice to all members of the credit union to allow certain members whose accounts hold nominal funds to keep those accounts open if those members are not participating in the use of products or services at the credit union.

To fulfill their responsibilities to manage the credit unions assets and resources prudently, credit union management, at the direction of board, creates a dormant/inactive account policy to fee and ultimately eliminate (close) accounts that are not being utilized by members who are not actively participating at the credit union.

What exactly are dormant/inactive accounts?
A dormant/inactive account is generally defined by policy as being an account:

1. That has not been utilized (i.e., no deposits or withdrawals) by a member for an extended period of time (e.g., six months to a year),
2. That contains less than a minimum prescribed amount of funds in the account (e.g., \$50 to \$100), and
3. Whose owner, the member, has not engaged in any other transactions with the credit union (e.g., made deposits to other accounts, engaged in credit transactions, or utilized other credit union services) for this same extended period of time.

**Helping Credit Unions
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Welcome Back Glory

Log Out

Laws

Uniform Unclaimed Property Act

Additional Resources

Checklist
FAQs
Model Policy
Michigan Unclaimed Property Act: Detailed Analysis

Related Links

Michigan Dept. of Treasury Web site for Unclaimed Property
State of Michigan Manual for Reporting Unclaimed Property



Resources



Compliance Management Tool

- Self-assessment compliance tool for Credit Unions.
- Allows credit unions to assign compliance tasks in order to stay on top of deadlines.
- Break-even pricing model.

Manual Action Item Form

Subject *

Annual Review - BSA Policy

Bank Secrecy Act

Compliance Culture

Knowledge

Assigned To

Select employee(s). Select single employee or control-click to select multiple employees. *

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Compliance Officer Comments

No comments

Prepare the BSA Policy for the Board to review at the October Board Meeting



Required Policies



Required Policies - Accounting

Asset Liability Management

- Chapter 13 NCUA Examiner's Guide, Letter to Credit Unions 12-CU-05, 00-CU-10
- Although the **regulations do not require an IRR (interest rate risk) management or ALM policy, safe and sound business practices do.**



Required Policies - Accounting

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Concentration Risk Policy

- Letter to Credit Unions 10-CU-03
- **Board Policy & Concentration Risk Limits:**
The board of directors must establish a policy which addresses its philosophy on concentration risk, limits commensurate with net worth levels, and the rationale as to how the limits fit into the overall strategic plan of the credit union.



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Required Policies - Accounting

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Capital Management

- NCUA 702.503 - General requirements. The extent and sophistication of a covered credit union's governance over its capital planning and analysis process must align with the extent and sophistication of that process.
- Mandatory elements. A covered credit union's board of directors (or a designated committee of the board) **must review and approve a capital policy, along with procedures to implement it. The capital policy must....**



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Required Policies - Accounting

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Interest Rate Risk Policy

- NCUA 741 – Appendix B
- Letter to Credit Unions 12-CU-11, 12-CU-05
- Federally insured credit unions (FICUs) will be required to adopt a written policy on interest-rate risk (IRR) management and a program to implement it effectively



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Required Policies - Accounting

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Liquidity Risk Management

- NCUA 703.3 – FCU, NCUA 741.12
- Can also be a part of your investment policy. Most state acts also require an investment policy.
- A Federal credit union's board of directors must establish written investment policies consistent with the Act, this part, and other applicable laws and regulations and must review the policy at least annually. These policies may be part of a broader, asset-liability management policy. Written investment policies must address the following: **(d) How the Federal credit union will manage liquidity risk.**



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Required Policies - Accounting

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Contingency Funding Plans

- NCUA 741.12
- Any credit union insured that has assets of less than \$50 million must maintain a basic written policy that provides a credit union board-approved framework for managing liquidity **and** a list of contingent liquidity sources that can be employed under adverse circumstances.



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Required Policies - Accounting

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Ownership of Fixed Assets

- NCUA Examiner's Guide
- Investments in fixed assets require board approval. Management should purchase fixed assets in compliance with established board policy.



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Required Policies - Operations

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Bank Secrecy Act

- NCUA 748.2 – BSA Compliance Program and Customer Identification Program.
- Establishment of a BSA compliance program - Each federally insured credit union shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and recording requirements and implementing regulations at 31 CFR chapter X. The compliance program must be written, approved by the credit union's board of directors, and reflected in the credit union's minutes.



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Required Policies - Operations

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Office of Foreign Assets Control (OFAC)

- FFIEC BSA Examination Manual.
- Based on the bank's OFAC risk profile for each area and available technology, the bank should establish policies, procedures, and processes for reviewing transactions and transaction parties (e.g., issuing bank, payee, endorser, or jurisdiction).



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Required Policies - Operations

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Incident Response Policy / Information Security Policy

- NCUA 748, Letter to Credit Unions 02-CU-17
- Each federally insured credit union will develop a written security program within 90 days of the effective date of insurance.
- The board of directors is also responsible for ensuring a written security program is in place that is designed to: ensure the security and confidentiality of member records; protect against anticipated threats or hazards to the security or integrity of such records; protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to members; and assist in the identification of persons who commit or attempt such actions and crimes.



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Required Policies - Operations

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Disaster Recovery (BCP) / Pandemic Plan

- NCUA Letters to Credit Unions 10-CU-10 and Appendix B NCUA Rules Part 749
- Senior management is responsible for developing the pandemic plan and translating the plan into specific policies, processes, and procedures.
- It is recommended that all credit unions develop a program to prepare for a catastrophic act. The program should be developed with oversight and approval of the board of directors.



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Required Policies - Operations

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Privacy Policy

- Regulation P (1016.1)
- *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part requires a financial institution to provide notice to customers about its privacy policies and practices.



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Required Policies - Operations

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Record Retention Policy

- NCUA 748 & 749
- This part describes the obligations of all federally-insured credit unions to maintain a records preservation program to identify, store and reconstruct vital records in the event that the credit union's records are destroyed and provides recommendations for restoring vital member services. All credit unions must have a written program that includes plans for safeguarding records and reconstructing vital records.



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Red Flags Policy

- NCUA 717.82 & 717.91
- A user must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.



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Required Policies - Operations

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Vendor Management Policy

- NCUA Letter 07-CU-13
- Credit unions should develop detailed policy guidance sufficient to outline expectations and limit risks originating from third party arrangements.



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Required Policies - Operations

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Cash Policies – Vault, ATM, Teller Drawer – Balancing

- NCUA Examiner's Guide – Chapter 9
- The board should adopt, and management should implement policies and procedures that ensure the accuracy and integrity of data and information regarding the credit union's cash accounts.



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Required Policies - Operations

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Nonparticipation Policy (Member Expulsion) – FCU

- NCUA 701
- A member also may be expelled under a nonparticipation policy adopted by the board of directors and provided to each member in accordance with the Act.

(MI Credit Union Act has a similar provision)



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Required Policies – Human Resources

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Conflict of Interest/Code of Ethics

- Bank Bribery Act & IRPS 87-1
- The proposed guidelines encourage all federally-insured credit unions to adopt internal codes of conduct or written policies or amend their present codes of conduct or policies to include provisions that explain the general prohibitions of the bank bribery law.
(policy strongly encouraged)



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Required Policies – Human Resources

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Incentive or Bonus Pay to Employees

- NCUA 701.23 – FCU
- A federal credit union's payment of an incentive or bonus to an employee, other than a senior management employee, in connection with that credit union's purchase, sale or pledge of an eligible obligation. This payment is permissible if the board of directors establishes a written policy and internal controls for the incentive or bonus program and monitors compliance with the policy and controls at least annually.



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Required Policies – Human Resources

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Board Travel Reimbursement

- Letter to FCUs 05-FCU-02
- To comply with the reimbursement rule, a federal credit union board of directors must adopt a policy to pay the “reasonable and proper costs” incurred by an official in carrying out the responsibilities of the official’s position



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Required Policies – Human Resources

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Mortgage Loan Originator Compliance

- Regulation Z – 1026.36
- A depository institution must establish and maintain written policies and procedures reasonably designed to ensure and monitor the compliance of the depository institution, its employees, its subsidiaries, and its subsidiaries' employees with the requirements of prohibited payments to loan originators, prohibition on steering, loan originator qualifications and name/address/NMLS on loan documents.



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Required Policies – Human Resources

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Financial Education / Fiduciary Duties – Board Training Policy – FCU

- Letter to Federal Credit Unions – 11-FCU-02, NCUA 701
- Establishing a policy to address training for newly elected and incumbent directors and volunteer officials, in areas such as ethics and fiduciary responsibility, regulatory compliance, and accounting and determining that all persons appointed or elected by this credit union to any position requiring the receipt, payment or custody of money or other property of this credit union, or in its custody or control as collateral or otherwise, are properly bonded in accordance with the Act and regulations.



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Required Policies – Human Resources

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Internal Controls

- Examiner's Guide – Chapter 14
- Management should develop and implement a fraud policy. The board of directors should adopt the policy and require that staff give written acknowledgment of receiving and reviewing the policy.



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Required Policies – Investments

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Investment Policy

- NCUA 703 – FCU
- A Federal credit union's board of directors must establish written investment policies consistent with the Act, this part, and other applicable laws and regulations and must review the policy at least annually. These policies may be part of a broader, asset-liability management policy. Written investment policies must address the following: The purposes and objectives of the Federal credit union's investment activities, etc.



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Required Policies – Investments

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Non-Deposit Investment Products – FCU

- Letter to Federal Credit Unions – 10-FCU-03
- The federal credit union's board of directors should adopt written policies and procedures concerning third party brokerage arrangements to ensure compliance with applicable law and regulation and to ensure consistency with these guidelines.



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Required Policies – Investments

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Derivative Investments – FCU

- NCUA 703.106
- A Federal credit union with derivatives authority must operate according to comprehensive written policies and procedures for control, measurement, and management of derivatives transactions. At a minimum, the policies and procedures must address the requirements of this subpart, except for those in 703.108.



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Required Policies – Accounts

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ACH Policy

- NACHA Rules
- Requirement to have a Risk Management Program for ACH activities, which includes policies and procedures.



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Required Policies – Accounts

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Dividend Policy

- NCUA 707
- The board of the credit union develops a nondiscriminatory dividend policy, by establishing dividend periods, dividend credit determination dates dividend distribution dates, any associated penalties (if applicable), and the method of dividend computation for each type of share account.



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Required Policies – Accounts

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E-Banking Compliance Policy

- Letter to Credit Unions 02-CU-17
- Policies and procedures should be developed or updated to specifically address the impact of e-Commerce on credit union operations and should be reviewed and adjusted as necessary (at least annually). The specific policies and procedures needed for a particular credit union will depend on its particular offerings and environment.



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Required Policies – Accounts

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Funds Availability Policy

- Regulation CC
- To meet the requirements of a specific availability policy disclosure under §229.17 and 229.18(d), a bank shall provide a disclosure describing the bank's policy as to when funds deposited in an account are available for withdrawal.



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Required Policies – Accounts

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NSF/Overdraft Privilege Policy

- NCUA 701.21 – FCU
- This regulation requires a federal credit union offering an overdraft program to adopt a written policy specifying the dollar amount of overdrafts that the credit union will honor (per member and overall); the time limits for a member to either deposit funds or obtain a loan to cover an overdraft; and the amount of the fee and interest rate, if any, that the credit union will charge for honoring overdrafts.



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Required Policies – Accounts

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Share Account Policies

- Examiner's Guide – Chapter 14
- The extent of the examiner's analysis depends on the complexity of the credit union's share structure. The examiner considers such factors as the following:
 - **Share policies** (i.e., terms, dividend rates, fees, etc.); and Effect of the share policies on net income, short- and long- term goals, and funds management.



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Required Policies – Accounts

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Unlawful Internet Gambling Policy

- Regulation GG
- All non-exempt participants in designated payment systems shall establish and implement written policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions.



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Required Policies – Accounts

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Wire Transfer Policy – Error Resolution

- Regulation E – 1005.33
- Commercial Insurance Requirement
- *Compliance program.* A remittance transfer provider shall **develop and maintain written policies and procedures** that are designed to ensure compliance with the error resolution requirements applicable to remittance transfers under this section.



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Required Policies – Lending

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Ability to Repay Policy

- Regulation Z
- You may already have underwriting policies, procedures, and internal controls that consider these factors. However, you should check your policies and procedures to ensure that they reflect that you will consider each of the eight factors.
- If you are utilizing the post-consummation cure provision, you must have policies and procedures for a post-consummation review.



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Required Policies – Lending

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Appraisal Policy

- FFIEC Interagency Appraisal and Evaluation Guidelines
- An institution's board of directors or its designated committee is responsible for adopting and reviewing policies and procedures that establish an effective real estate appraisal and evaluation program.



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Required Policies – Lending

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Fair Credit Reporting Act

- NCUA 717.42
- Each furnisher must establish and implement reasonable written policies and procedures regarding **the accuracy and integrity of the information** relating to consumers that it furnishes to a consumer reporting agency.



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Required Policies – Lending

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Loan Policy – (Fair Housing/Equal Credit statement*)

- NCUA 701.21 (*good faith error defense)
- The board of directors of each Federal credit union shall establish written policies for loans and lines of credit consistent with the relevant provisions of the Act, NCUA's regulations, and other applicable laws and regulations.
- ECOA - requirement to adopt a non-discrimination policy



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Required Policies – Lending

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Regulation Z – Truth in Lending Act

Additional Defenses Against Civil Actions

The financial institution may avoid liability in a civil action if it shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error that occurred despite the maintenance of procedures to avoid the error.

A bona fide error may include a clerical, calculation, computer malfunction, programming, or printing error. It does not include an error of legal judgment.

Showing that a violation occurred unintentionally could be difficult if the financial institution is unable to produce evidence that explicitly indicates it has an internal controls program designed to ensure compliance. The financial institution's demonstrated commitment to compliance and its adoption of policies and procedures to detect errors before disclosures are furnished to consumers could strengthen its defense.

http://files.consumerfinance.gov/f/201308_cfpb_tila-narrative-exam-procedures.pdf



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Required Policies – Lending

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Indirect Lending Policy

- Letter to Credit Unions 10-CU-15
- Comprehensive written policies addressing all facets of the indirect lending program including underwriting and monitoring;



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Required Policies – Lending

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Loan Participation Policy

- NCUA 701.22 & 741
- The purchase complies with the purchasing federally insured credit union's internal written loan participation policy, which, at a minimum, must: establish underwriting standards for loan participations, establish limits by originating lender, establish limits by loan type, and establish limits by borrower.



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Required Policies – Lending

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Member Business Loan Policy

- NCUA 723.6

Mortgage Servicing

- RESPA 1024.38
- A servicer shall maintain policies and procedures that are reasonably designed to achieve the objectives set forth in the regulation.



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Required Policies – Lending

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Private Student Loans

- NCUA Letter to Credit Unions 13-CU-15
- Establish loan policies with sound underwriting and collection requirements (e.g., debt ratio limits for co-signers, if applicable; individual loan limits; school certification of expenses; etc.).



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Required Policies – Lending

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Risk Based Lending Policy

- Letter to Credit Unions 99-CU-05
- A risk-based lending policy should be appropriate to the size and complexity of the institution's operations and should state the goals of the risk-based lending program. The policy should, at a minimum, address the following lending standards: types of products offered, as well as those that are not authorized; portfolio targets and limits for each credit grade or class; lending authority clearly stated for individual loan officers, supervisors, and credit committee.



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Required Policies – Lending

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SAFE Act Policy

- Letter to Credit Unions 10-CU-13
- By October 1, 2010, credit unions are required to establish written policies providing a basic framework for compliance with the SAFE Act.



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Required Policies – Collections

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Allowance for Loan Losses

- Letter to Credit Unions 02-CU-09
- Emphasizes the NCUA's long-standing position that credit unions should maintain and support the ALLL with documentation that is consistent with their stated policies and procedures, generally accepted accounting principles (GAAP), and applicable supervisory guidance; and
- Provides guidance on maintaining and documenting policies and procedures that are appropriately tailored to the size and complexity of the credit union and its loan portfolio.



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Required Policies – Collections

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Charge off Policy

- NCUA Letter 03-CU-01
- The board of directors should appropriately tailor a charge-off policy to the size and complexity of the credit union's operation. The charge-off policy should reflect current judgments about the credit quality of the loan portfolio.



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Required Policies – Collections

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Collections Policy, bankruptcy, foreclosure

- NCUA 701.39, RESPA 1024.38, NCUA Examiner's Guide – Chapter 10, Letter to Credit Unions 11-CU-01
- The board should approve the extent of the delegation (i.e., the dollar amount and loan type), reflect the approval in board minutes, and note the parameters in the written collection policy or, more appropriately, written loan charge-off policy.



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Required Policies – Collections

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Troubled Debt Restructuring and Non Accrual Policy

- NCUA 741 – Appendix C
- In addition, the policy must establish sound controls to ensure loan workout actions are appropriately structured.



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Required Policies – IT

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COPPA – Children’s Online Privacy Protection Act

- FTC - 16 CFR Part 312.4
- COPPA applies only to those websites and online services that collect, use, or disclose personal information from children. However, the FTC recommends that all websites and online services – particularly those directed to children – post privacy policies online so visitors can easily learn about the operator’s information practices.



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Required Policies – IT

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Social Media Policy

- FFIEC - Consumer Compliance Risk Management Guidance
- Financial institutions are expected to use the Guidance in their efforts to ensure that their policies and procedures provide oversight and controls commensurate with the risks posed by their involvement with social media.



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Required Policies – IT

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Remote Deposit Capture

- Letter to Credit Union 09-CU-01
- Risk Mitigation and Controls. Management should establish policies addressing risk tolerance levels, internal procedures and risk controls, risk transfer mechanisms, and contracts and agreements.



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Questions???

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