

DATE: June 3, 2019
BULLETIN: 2019-KDCU-CUB-3
TO: Kansas Chartered Credit Unions
SUBJECT: Multi-Featured Open-End Lending

Occasionally, the Kansas Department of Credit Unions will receive inquiries from Kansas credit unions on specific regulatory topics. When the topic may be of interest to many credit unions, KDCU will use this Bulletin format to disseminate the information.

MULTI-FEATURED OPEN-END LENDING

Q: Our credit union is interested in offering multi-featured open-end lending, what is the most important thing for us to consider when implementing the program?

A: As you know, Regulation Z (Truth in Lending Act) will be applicable to this product. The most important regulatory item to remember is that underwriting can only be done at account opening. When the member submits an advance request, that action cannot trigger a new credit report being generated. Otherwise, the advance must be treated as a closed-end loan, thus requiring the applicable disclosures. The credit union should also have policies and procedures that differentiate between open and closed-end lending.

Q: If we can't check credit at the time of an advance request, how does the credit union know if something has changed?

A: Credit unions are allowed to verify creditworthiness on an "occasional" or "routine" basis. "Occasional" occurs on a limited basis outside the routine timetable, but cannot be triggered by an advance request under an open-end credit plan; this should not be the norm. "Routine" occurs on a regular basis, as established by the credit union, and is used to determine whether a member continues to meet the credit standards. The credit union's policy should clearly establish the schedule. As referenced in the prior answer, the verification process cannot be triggered by an advance. However, if the loan is secured by the residence, it is still appropriate to verify the value of the collateral with each advance.

Q: What should be in our policy?

A: It is up to the Board of Directors and management to set policy for the credit union. When developing the policy, the Board should consider establishing procedures for underwriting; "routine" verification, including the timing of the verification; types of loan products included, as well as credit limits for each loan product. It is also important to establish a training program for staff that extends beyond the lending department.