

**DATE:** August 26, 2019  
**BULLETIN:** 2019-KDCU-CUB-9  
**TO:** Kansas Chartered Credit Unions  
**SUBJECT:** Preferential Treatment and Insider Loans

### PREFERENTIAL TREATMENT AND INSIDER LOANS

Kansas credit unions are cautioned not to give preferential treatment (for example, reduced fees or lower loan rates) to one member that is not available to another member. NCUA Rules and Regulations, Part §701.21(d)(5), addresses “nonpreferential treatment” with regard to loans. It states that “...the rates, terms and conditions on any loan or line of credit either made to or endorsed or guaranteed by – (i) an official, (ii) an immediate family member of an official, or (iii) any individual having a common ownership, investment or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to other credit union members.” The regulation goes on to define “immediate family member” as a “spouse or other family member living in the same household.”

When loans are made to credit union “insiders,” you must comply with the above regulation. “Insiders” include officers, directors, committee members, employees and members of their immediate families. Examiners will scrutinize procedures for these types of loans, as well as the loan files. Specifically, tracing loans to officials back to approval in the board minutes, ensuring the loans are in compliance with §701.21(d)(5), and reviewing statements for negative balance activity, consistent application of fees and charges (these should mirror those of other members), and numerous or unusual transactions.

The Kansas Credit Union Act also addresses the issue of loans to directors, credit committee and supervisory committee members or other members for which the director or committee member acts as a guarantor or endorser who are not employees. K.S.A. 17-2216a (2019 Supp.) specifically states that such loans must comply “...with all lawful requirements under the credit union law with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers.”

In addition, the borrower (director or committee member) must take no part in the consideration of the application and cannot attend any committee or board meeting while the application is under consideration. One scheme to look out for is when an insider recruits a more creditworthy individual to take out a loan with the proceeds diverted to the insider. The insider can influence the loan application process without disclosing the connection to the applicant.

If insider loan improprieties become the subject of an enforcement action, the credit union’s standing in the community can be impaired and its financial reputation damaged.