

To: NCUA Board Chairman Todd Harper  
NCUA Board Vice Chairman Kyle Hauptman  
NCUA Board Member Rodney Hood

From: The Indiana Credit Union League and its Board/Governmental Affairs Committee

**Indiana credit unions approach with ODP/NSF services and concerns about regulatory restrictions**

This email is provided on behalf of the Indiana Credit Union League Board and Governmental Affairs Committee representing the state's credit unions. It provides information and analysis about the approach to offering ODP/NSF services by Indiana's credit unions. Details provided by members of the League Board and Governmental Affairs Committee regarding their credit unions are listed below so that this email offers specific examples to support our position that these services are working well for the members who choose to use them. This collection of information about the approaches taken by these credit unions is representative of credit unions across the state. We felt that offering specific examples that show the various ways ODP/NSF services are being managed to represent an important and needed service for credit union members would be better than offering general comments. The sum total of these examples provides a good picture of Indiana's credit unions.

We are concerned about the potential for regulatory or supervisory restrictions on the manner in which these services are priced and made available. Alternatives to credit union-based ODP services that members might use are much more expensive and create a cycle of dependence on those other options that is difficult to break, while ODP programs from credit unions focus on helping members avoid becoming trapped in a vicious cycle.

Indiana's credit unions have a tremendous track record of providing service and value to consumers and local businesses, with Indiana credit union members as a group saving \$130 million annually in aggregate from better rates and fees compared to if the members' only options were for-profit banks. Credit unions represent consumer protection through their structure and approach in the marketplace. Credit unions are subject to the tactics of trial lawyers where regulatory or supervisory changes can open the door to more lawsuit exploitation strategies for programs that have worked well serving members. Fee income from credit union members who value the service at the price charged compared to other options is a very important part of the credit union business model. Regulatory restrictions to that source of revenue would be disruptive to a model that serves the interests of consumers and local businesses very well.

Below is a listing of the approaches taken and analysis of the programs for a number of individual Indiana credit unions, as well as commentary by the CEOs of those credit unions.

--We made one change to our credit union's program over the past year to approve positive/settle negative transactions, with it showing a line item for \$0 with a fee waived description.

--The vast majority of our credit union's members who opt-in under Reg E make well over \$100,000 annually and expect their payments to be covered. Restrictions to the current approach with courtesy pay and overdraft protection programs would not be what those members want, in addition to creating financial hardship and potentially safety and soundness issues for many credit unions. Credit unions under \$250 million assets would be hit the hardest by restrictions that impact fee income leading to more mergers and consolidation. The fee income would likely have to be replaced through account maintenance fees if ODP services and fees are restricted. The analysis of our credit union's courtesy pay users reflects less than 2.1% of all depositors utilize courtesy pay; only .17% of members consistently had one or more overdrafts each month in 2022; 81% of all new accounts opened in branches in 2022 chose to opt-in to courtesy pay on ATM and one-time debit purchases to assure approval at point-of-sale; the largest increase in courtesy pay revenues in 2022 over the prior year was in the income group with over \$144,000 annual salary and deposits of over \$12,000 per month. Examples of the service's benefits to members include calls to the contact center where it helped members buy groceries and put gas in their car while traveling to another state. The service is used by doctors, lawyers, and professionals who

expect payments to be covered. Usage keeps growing and it represents 43% of the credit union's fee income while members thank the credit union for offering it.

--Only 3.5% of members opt out of the overdraft advantage program. We refund 8% of the fees and allow members under 25 years old to receive refunds three times per year. 20% of the credit union's membership had a paid ODP item, with the average item being \$159. The credit union's ODP program meant \$32 million paid into the local economy for purchases that went through without embarrassment or hassle.

--All members decide if they want to opt-in. Any transactions \$10 or less are not charged an ODP fee if paid through the ODP service. The number of NSF/Courtesy Pay fees per day on any given day are capped at three. Outreach is made to heavy users. There is a 60-day waiting period on new accounts before new members can qualify for courtesy pay.

--Financial literacy training and financial counseling are available along with courtesy pay. On the courtesy pay program, 10% of fees are refunded. A fee is not charged when the transaction was approved and settles negative. No fee is charged if the account is \$20 or less negative. These fees help fund the credit union's financial literacy efforts, which require \$550,000 in funding annually. 39% of the credit union's members are enrolled in courtesy pay.

--The reason that the overdraft protection program is available is to help members facing a cash flow crisis at a crucial time. The purpose for the service should be the focus instead of the fee becoming the focal point. Without the service, members would have non-sufficient charges from the intended payment receiver or be denied the ability to complete important timely transactions. This credit union has reduced fees based on reviewing the program. Restrictions on the program and related fees, imposed by regulation, would result in negatives for the members and credit union. The credit union offers other options such as a ready reserve line of credit and personal line linked as an overdraft protection loan with free unlimited transfers. Less than 9% of the credit union's members use the overdraft protection service, and it's not the same group using it repeatedly. Financial counseling is an emphasis of the credit union, in addition to providing tools and financial literacy training.

--There are challenges trying to fine-tune the ODP program based on what core processors can offer. Discerning between authorized positive settle negative Reg E debit transactions and non-APSN debit purchases is challenging. Debits are posted in order of smallest dollar to largest dollar and fees have been reduced the past two years. The credit union doesn't batch post check presentments, they are singularly unique one-off postings.

--There are a number of member stories about the benefits of our courtesy pay program. These include: covering utilities, medical bills, rent to avoid much higher daily late fees, to avoid payday lenders, new tires so could get to work, for basic necessities in life.

We are very concerned that potential new regulatory restrictions in this service area by NCUA would result in negative trade-offs for credit unions and their members that are more substantial than any perceived gain from new restrictions. Please don't hesitate to contact us if there are questions or if more information would be helpful. I am serving as the contact point for the League Board and Governmental Affairs Committee with NCUA on this matter. Thank you.

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