



The Auditor's Report

Time to Check Under the Hood of those Split Dollar Loan Regime Plans

As times change, so do the types of deferred compensation plans available for employees. One recent change has been an increase in split dollar loan regime plans. Under this type of plan, the plan's investment vehicle is a life insurance policy owned by the employee and used as collateral for a loan to pay for insurance premiums. Depending on the frequency of premium payments, the allocation of plan investment options, and the rate of accrued loan interest, the combination of the loan and related accrued interest can exceed the cash surrender value of the life insurance policy used for collateral. Due to this fact, some credit unions have purchased an additional insurance policy to protect themselves in the event the loan becomes due while the cash surrender value is less than the combined balance of the related loan and accrued interest. The additional insurance policy may help in a shortfall, but it does not change the required accounting.



GAAP currently states that if the agreement between the employee and the credit union allows for recourse against the employee then the credit union can record the plan asset at the combined balance of the loan and accrued interest, even if the combined balance is less than the cash surrender value of the life insurance policy. Of course, due diligence should be performed supporting the employee's ability to repay.

However, if the agreement between the employee and the credit union does not allow for recourse against the employee should loan repayment be required prior to insurance payout and a shortfall exists between the combined loan and accrued interest balance, then the credit union is required to record the plan asset at a balance no greater than the life insurance policy's cash surrender value. Credit unions should look at the underlying deferred compensation agreement's wording about recourse under those circumstances. If you find the agreement has no recourse and the plan asset is on the credit union's books at an amount greater than the cash surrender value, you may want to consider revising the agreement to allow for recourse or reduce the plan assets to reflect a balance no greater than the life insurance policy's cash surrender value .

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Drafting A Successful Overdraft Protection Program

A successful Overdraft Protection Program (ODP) should have two primary objectives. The program should provide members in good standing with the convenience and peace of mind of an alternative to having insufficient funds items returned unpaid. This, in turn, can potentially save a member time, additional fees charged by other financial institutions, and embarrassment. Furthermore, the program should generate non-interest income to the credit union, all while providing and maintaining excellent service to members.

The key to maintaining a successful ODP program is developing a strong policy, providing guidance, clarity and responsibility. To start, the program must make clear that paying overdraft items is fully discretionary and that the credit union may reserve the right to not pay specific transactions as presented. Additionally, members need to know the program is offered as a benefit and not as a line-of-credit option. The credit union should never encourage members to overdraw their accounts nor should marketing efforts promote the program as a line of credit



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It is imperative to establish member account eligibility and ODP limits. ODP disclosures should provide the members with program eligibility, overdraft limits, fees and the type of transactions covered as well as the option to opt-out of the program. In addition, clarity of language used in member disclosure should be a top priority. This includes differentiating between current balance and available balance, and determining which balance the overdraft fee will be assessed against. ODP disclosure should be provided to members upon account opening and/or members opting into the program, and made available (if possible) online for member review.

Here’s the bottom line. The banking market is ultra-competitive. There are many benefits that may attract a member to a particular credit union and ODP is usually a crowd favorite. Members will have the peace of mind knowing that whenever their debit cards are swiped or scanned, the transactions are sure to go through. The credit union will have a revenue stream while creating an important benefit for their members. Just know this, when looking at the composition of a credit union’s share and share equivalents, a high concentration of member draft accounts is generally a good indicator that members are using your financial institution for their everyday banking needs – and a successful ODP program may be the reason for it!



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Business Continuity Planning – Key Elements Your Examiner Will Expect

State and federal examiners continue to critique credit union Business Continuity Plans (BCP's) this year, with more focus on Cybersecurity Event Response than ever before. CastleGarde has consolidated ten key points examiners will expect in every BCP.

- **Annual Update.** Examiners typically will check your BCP plan date and last test date. Ensure that your credit union is annually updating and testing the plan and assessing gaps in test results.
- **Business Impact Analysis (BIA).** Business Impact Analysis sections should prioritize ALL credit union critical functions with a Criticality or Impact Rating on both members and the operation. The BIA should also include recovery time objectives, recovery point objectives (last retrievable data point for critical functions), and maximum allowable downtime for each function. These are used to establish estimated losses or financial impact if recovery time objectives are not met.
- **Risk Analysis.** Risk Analysis should assess all inherent risks to the credit union (i.e. – hurricane, internet outage, cybersecurity event, office inaccessible, etc.). The Risk Analysis should include internal and external threats, likelihood of occurrence, mitigating factors, and residual risk after mitigation.
- **Pandemic Planning.** All BCP's should include a Pandemic Plan section, which assesses continuity of operations after a pandemic. Items include work from home policies, mitigation strategies for spreading disease, and procedures for possible closure of branches.
- **Departmental Level Recovery.** BCP's should prioritize each credit union department's critical and non-critical functions, minimum staff requirements, critical systems, and alternate locations for staff after a disaster event. Other items to note for each department are the location of department procedures and cross-training of employees.
- **Board Oversight Responsibilities.** Annual review and testing should be noted in the Board minutes after completion. Examiners will look for clearly defined Board oversight responsibilities in the plan, as well as annual review dates.
- **Cyber Security Events.** With ever increasing emphasis on cybersecurity event response, having a solid Incident Response Plan that coordinates with the BCP is imperative. Both the BCP and the Incident Response Plans should identify which cybersecurity events will trigger the BCP. Consider researching cybersecurity insurance and discuss responses to cybersecurity events with legal counsel. Credit unions may also want to partner with a cybersecurity forensics company to ensure a quick and methodical investigation after an event.
- **Disaster Recovery of Critical Systems.** Many times, Business Continuity Planning and Disaster Recovery are used in the same context. However, Business Continuity Plans should encompass "organization-wide" recovery, while Disaster Recovery focuses primarily on critical systems restoration. Credit unions need to have a separate, annually tested Disaster Recovery Plan for critical systems (core, email, internet, network, phones) that is separate from the Business Continuity Plan. Think of Disaster Recovery of Critical Systems as *part* of your overall Business Continuity Plan.
- **Oversight of Technology Service Providers/Vendor Management.** Credit unions rely heavily on outside vendors for critical services. Credit unions need to ensure those critical vendors will be ready and available to meet recovery time objectives for critical functions (i.e. – core system support, online banking support, debit card support, third-party call center support, etc.). BCP's should include an organization-wide critical vendor list with contacts for each vendor.
- **Employee Training.** Having a great BCP means nothing if employees do not know how to use it. Credit unions should include annual training regarding BCP for all employees, including (but not limited to) evacuation procedures, marked as safe procedures, work from home policies, etc.

CastleGarde recommends keeping your plan as simple as possible, while still including all required elements. This will help ensure the annual update process is not cumbersome or overwhelming (plans that are 400 or 500 pages are inherently more difficult to update and maintain than plans with less content). Effective BCP's can be developed in the 75 to 125 page range that meet all regulatory requirements.

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ABOUT US

Since 1979, Nearman, Maynard, Vallez, CPAs has provided auditing and consulting services exclusively to credit unions throughout the United States. Our dedication to the credit union industry has given us the unique ability to provide exceptional service at a reasonable price. Our primary objective is to assist our clients in accomplishing their goals through our experience, service, and commitment. If your Supervisory/ Audit Committee or Management is interested in obtaining information on the subjects in this issue or about our many services, call or email us today.

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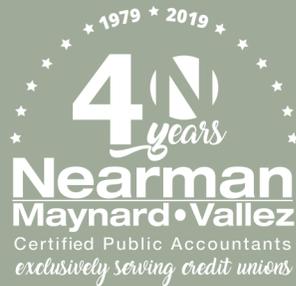


Also, delegate BCP update responsibilities to each department annually. This will “lighten the load” and ensure all departments are reviewing their recovery steps after a disaster. Also remember that BCP is a corporate wide effort, encompassing all areas of the credit union and should not be considered the sole responsibility of IT. For further guidance, review the FFIEC IT Examination Handbook titled “Business Continuity Planning.”

<https://ithandbook.ffiec.gov/it-booklets/business-continuity-planning.aspx>

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**CastleGarde is an acknowledged expert provider of credit union information security based assessments and regulatory compliance program services currently providing services to over 300 credit unions nationally and internationally. CastleGarde specializes the area of Information Security policy, technology assessment and the physical aspects addressing the controls, access, management, and safeguarding of member information as defined by NCUA Reg. 748 Appendix A and B. CastleGarde provides information security policy and procedure reviews, external penetration testing as well as onsite vulnerability assessments including physical security reviews to measure the overall effectiveness of your information security controls and related programs. Other services include the performance of General Controls Reviews and a full turnkey offering in Business Continuity Planning.*



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BOWL-A-THON

Nearman, Maynard, Vallez, CPAs participated in the Southernmost Chapter's 3rd annual Bowl-A-Thon on April 17th at Kings-City Place Doral. It was a great evening sharing some laughs with our Credit Union affiliates while raising money for a good cause.

