



State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Credit Unions

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DCU Opinion Number 02-1

Date: January 17, 2002

From: Linda Jekel, Program Manager

Subject: State Credit Unions May Close for Four Consecutive Days After Appropriate Mitigation of Risks

Issue

The question has arisen whether a Washington State-chartered credit union (state credit union) may close for four consecutive days, including one or two normal business days, such as over the Thanksgiving “weekend” or when Christmas falls on a Tuesday or Thursday.

Analysis

The Washington State Credit Union Act, Chapter 31.12 RCW, and Division rules are silent regarding the closure of a state credit union’s branches/offices. Likewise, the Federal Credit Union Act, beginning at 12 U.S.C. Section 1751, and National Credit Union Administration (NCUA) rules are silent on this issue. We do not believe that RCW 30.04.330 prohibits closing in this circumstance.

Nonetheless, a state credit union that closes one or more branches/offices on a business day may create exposure for the credit union if:

1. The credit union fails to comply with applicable clearinghouse agreements or rules. Some credit unions have a direct relationship with a clearinghouse to clear checks or are a party to a clearinghouse agreement. The clearinghouse will define days of operation for check clearing.
2. The credit union fails to honor the “midnight deadline” under the Uniform Commercial Code in Washington (UCC). See Chapter 62A.4 RCW. Financial institutions have until midnight of the following business day after receipt of a check (through the check clearing system) to determine whether to accept or return the check. A credit union would have to honor a check if it failed to return it within the deadline unless the credit union has established ahead of time that it will not be open for business.
3. The credit union fails to comply with Reg CC. Reg CC establishes time deadlines when a financial institution must make funds available after a deposit has been made. In some cases,

financial institutions may not have to make the funds available for a number of days following the day on which the deposit is made. For additional reference, the Federal Reserve provides a copy of Reg CC and “Compliance with Reg CC: A Guide for Financial Institutions” at their website at <http://www.federalreserve.gov/Regulations/RegRef.htm#cc>

4. The credit union fails to provide adequate written notice of the closure to members. Members have a reasonable expectation that their credit union (and other financial institutions) will be open on business days. Prior notice will allow members to acquire funds in advance of the closure and help preserve public confidence in the credit union system. We recommend 2 to 6 weeks prior notice. We suggest the credit union post a notice on the branch/office door, publish the notice in the credit union newsletter, or include a flyer with account statements.

Conclusion

We conclude that a state credit union may close one or more of its branches/offices for four consecutive days, including one or two normal business days, if:

- A. The credit union’s board of directors adopts a written policy on the matter; and
- B. The credit union appropriately mitigates its risks under items 1 through 4 above.