

Bankruptcy Best Practices

General Guidelines

In the interest of preserving the assets of the Credit Union, the Credit Union should make sure that all financially reasonable methods are utilized to minimize future losses due to members filing bankruptcy. **It is the intention of the Credit Union that all employees follow federal and state laws governing the rights of debtors and creditors in every case.** Has your Board defined the handling of bankrupt members in the Collection Policy?

Bankruptcy Notification

Any form of notification shall be sufficient to activate these Bankruptcy Procedures. The most common forms of notification include:

- Mail notification from the Clerk of the Bankruptcy Court
- Mail notification from the debtor's Attorney
- Search by the Collections Department or any Credit Union employee of the PACER System
- Oral notification from the debtor with a valid case number

Notification Procedure

It is imperative when notified of the pending bankruptcy action that the Credit Union honor the automatic stay from any and all attempts to collect delinquent accounts or negative balances. Some courts have held that providing a statement balance on a delinquent or negative balance account can be construed as attempting to collect the debt. Conversely, some states provide the debtor the opportunity to execute a Statement Release that allows them to keep receiving their statements. In either case, the following items must be completed on all the member's accounts immediately following notification of bankruptcy.

1. Every bankruptcy notice shall be date stamped when received.
2. Follow the **System Change Directions** to ensure that all necessary computer settings, flags, and warnings shall be immediately entered and activated. This applies to open or closed accounts or memberships.
3. File/scan a copy of the notice in the member's account folder(s).
4. A hard copy printout of each loan shall be run on the filing/notification date and placed in the member's file folder. This will support any claims and be used in case of a dismissal to return the account to the original terms.
5. If foreclosure or repossession is in process, all action shall cease until proper legal measures are taken to lift the Automatic Stay imposed by the bankruptcy filing. Create and send any notifications to any parties involved in any of these situations.
6. All loans shall be evaluated to ascertain if fraud took place on the original application. If fraud is possible, refer the account to the Credit Union attorney. The exception is in cases where pursuit is not in the best interest of the Credit Union.
7. Contact the bankruptcy attorney for clarification of security disposition (reaffirmation or lift of stay) if there is security.
 - a. Reaffirmation

- i. Send paperwork to member's attorney, retain copies, and set follow-up. All reaffirmations shall be in writing, signed by the member(s), co-signers and their attorney or the Bankruptcy Court Judge. Be sure to set follow-ups for deadlines to have these filings completed.
 - ii. Upon receipt of signed papers forward to bankruptcy court
 - iii. Set follow-up to verify they received the paperwork, Pacer is good for this process
 - b. No reaffirmation
 - i. Arrange with attorney for return of collateral with all required accessories, for example keys are a good item to have with a car
 - c. Chapter 13
 - i. Contact member's attorney to get lift of stay if needed
 - ii. Get valuation in case there is a dispute
 - iii. Send Proof of claim for all accounts and with Lift of Stay if secured
- 8. The member, through their attorney or personally if the bankruptcy is filed pro se, shall be notified of the restrictions placed on their account(s).
- 9. A claim shall be filed on all bankruptcies, unless creditors are requested by the court not to file claims.

System Change Directions

Flag account for Bankruptcy by completing the following:

- ❖ Perform a global search for all accounts belonging to the member, including closed accounts and closed memberships.
- ❖ Add a Comment to the member's base share (000) account, noting the Bankruptcy type, filing date, case number, and joint or single. For example, 'Ch7, filed 12-12-12, case #845793, Single (or joint with Jane Doe)'
- ❖ Create a tracker entry – enter the appropriate bankruptcy memo code and note the full details of the bankruptcy. This should include no less than the case number, Chapter, filing date, single or joint filing and if joint, who they filed with, the attorney's name and phone number. It should also include, the objection date, the attorney's address and E-Mail, the trustee's name and contact information, the Judge's name, the court address and their contact information.
- ❖ Set Statement Code to bankruptcy setting MNUPDT #1. Enter the Case number into the Reference Field. You could also mark as Incorrect Address – this highlights member information and prevents mailings to member without actually changing the address.
- ❖ Mark or unmark the marketing "opt out" flags as appropriate
- ❖ Turn off Shared Branching option.

- ❖ Freeze all accounts pending direction from Bankruptcy court; MNUPDT #2
- ❖ Decide if disbursement limits need to be adjusted
- ❖ Adjust any late fine or interest rate settings if appropriate
- ❖ Check the 'No delinquency notices printed' flag to stop late notices from being printed
 - If joint owner only filed refer to MNLOAN #5 Additional Signers
- ❖ If you use Security Codes to code bankruptcy accounts this is where you can change those
- ❖ Check the 'No ANR notice printed' flag to stop those notices from being printed
- ❖ Click the Credit Reporting Info button and enter the proper Credit Bureau Status code and the appropriate Consumer information indicator code. (Use the lookup button on that screen or refer to CU*BASE® online help for valid codes.)
- ❖ Hot-card any ATM/Debit/Credit cards, if appropriate; MNATMD or MNBTCB
- ❖ Update Underwriting Comments; MNLOAN, Option 1
- ❖ Check the member's enrollment for E-services like It's Me 247 online banking, CU*Talk audio response, CU*EasyPay – Bill payment enrollment, E-Mail, and E-Statement enrollment, and take appropriate action to deactivate, if appropriate (use MNSERV #22 Member Personal Banker)
- ❖ Turn off Tiered Services. Access the account via Phone Operator and use F15-Sales Tools, then select Tiered Services Scores/Misc. Maintenance. Use the "View Member Score Detail/Set Base Scores for Specific Member Account" option and check the "Omit..." checkbox.
- ❖ Redeem Lifetime Tiered Services points. Access the account via Member Inquiry and use F15-Sales Tools, then select Tiered Services Scores/Misc. Maintenance. Use the "Work with Lifetime Points for Specific Member Account" option.
- ❖ Go into Household and update the Misc. /Comments area to indicate bankruptcy.
- ❖ Set follow-ups to verify Discharge of Debtor is received so it doesn't get overlooked
- ❖ Set follow-ups after discharge is received to make sure the case is closed. Discharge is not the same as Closed.
 - Tracker information regarding the discharge information such as date, time etc. be sure you get a closed date too.
 - File appropriate papers
 - Update Credit Bureau reporting
 - If reaffirmed, change system statuses accordingly
 - Is 1099 required (not usually)