

How to Handle Members in Bankruptcy

Bankruptcy Tools

Your credit union should make sure that all reasonable methods are used to minimize future losses incurred due to members filing for bankruptcy. It is important to have procedures for your employees so that Federal and state laws governing the rights of debtors and creditors are followed in every case. Do you have these in place at your credit union?

Through events such as the Collections Roundtable meetings, CU*Answers Collection Services has provided a forum in which seasoned collections professionals can collaborate and discuss ways to handle bankruptcies. CU*Answers Collection Services also works to stay informed of recent changes in the marketplace in regards to bankrupt members. With the expertise of their team members, CU*Answers Collections Services has developed the following guidelines.

It is important to note that this booklet should be used as a guide. Each credit union will need to evaluate these guidelines and develop its own credit policy for handling bankrupt members.

Frequently Asked Questions (FAQs)

What are some ways my credit union can be notified that a member is bankrupt?

There are several ways your credit union can be notified that a member is in bankruptcy. This will start your bankruptcy procedures. Common ways you can be notified include:

- Notification by mail from the clerk of the bankruptcy court
- Notification by mail from the debtor's attorney
- Through a search on the PACER system by your collections department (or any credit union employee)
- Verbal notification from the debtor with a valid case number

Can I attempt to collect the member's debts once I receive this notification?

Once you receive notification that your member is in bankruptcy, your credit union must honor the automatic stay and not make any attempt to collect delinquent accounts or negative balances.

How do I handle a bankruptcy in CU*BASE?

Once you receive notification, refer to "Handling a Bankrupt Member in CU*BASE" on Page 3 to ensure you process the account correctly for collections. These procedures apply to any open *or closed account* or

membership with which the member is associated. See Page 3.

How should statements be handled?

According to some courts, even showing the balance of a negative or delinquent account on a member's statement can be construed as an attempt to collect on the debt. However, some states give the debtor the opportunity to sign a statement that allows them to continue to receive statements.

What procedures should I follow after notification?

Once you receive notification that your member is in bankruptcy, you should complete the following procedures on the member's account.

1. Date stamp the bankruptcy notice the date it is received. Then scan a copy of the notice (if needed) and save it in the member's account folder(s).
2. Print a hard copy of each loan on the filing/notification date and place this documentation in the member's folder. This will support any claims and can be used in case of a dismissal to return the account to the original terms.
3. If foreclosure or repossession is in process, cease all action until proper legal measures are taken to lift the automatic stay imposed by the bankruptcy filing. Create and send the appropriate notifications to any parties involved.
4. Notify the member of restrictions placed on their accounts through their attorney or personally if the bankruptcy is filed pro se.
5. File a claim on all bankruptcies, unless the court requests that creditors to file claims, or if the filing will cost more than the loss.

What do I do if the member has a loan with my credit union?

If the member has a loan with your credit union, evaluate the member's loans to determine if fraud took place on the original application, as fraud is not dischargeable in bankruptcy.

If there is security on the loan, contact the bankruptcy attorney for clarification of security disposition (reaffirmation or lift of stay).

In cases of reaffirmation:

1. Send paperwork to the member's attorney, retain copies, and set up follow-ups. All reaffirmations must 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 make sure these filings are completed.
2. Once you have the signed papers, forward them to the bankruptcy court.
3. Set follow-ups to verify the court received the paperwork. An easy way to confirm this is by using Pacer.

In cases of no reaffirmation:

1. Make arrangements with the attorney to return the collateral with all required accessories, such as car keys or other add-on items (such as snow plows and custom stereo systems).

In cases of Chapter 13:

1. If needed, contact the member's attorney to get a lift of stay.
 2. Get a valuation of security in case there is a dispute.
 3. Send proof of claim on all accounts. If the loan is secured also send the lift of stay.
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Handling Bankrupt Members in CU*BASE

The following are recommended steps to follow in CU*BASE after receiving notification that a member is in bankruptcy. This will ensure that you remove permissions, freeze accounts, present warnings to staff, and perform other necessary tasks to minimize losses.

Follow these procedures on any open *or closed accounts* or membership with which the member is associated.

Show Me the Steps Directions

For step-by-step directions to complete each of these items, refer to the “**Handling a Bankruptcy from A to Z**” topic in Show Me the Steps:

[Handling a Bankruptcy from A to Z](#)

1. Use Inquiry (F1) from the Home Page to search for all accounts belonging to the member, *including closed accounts and closed memberships*. You're searching for accounts or memberships that may still have remaining debts.
2. Add a comment to the member's base share (000) account noting the following:
 - Bankruptcy type
 - Filing date
 - Case number
 - Whether it's a joint or single filing
 - Example: Ch7, filed 12-12-12, case #845793, joint with Jane Doe
3. Create a Collections XX Tracker (or append to an existing XX Tracker that includes) the appropriate bankruptcy memo code and the full details of the bankruptcy.
 - Case number
 - Chapter
 - Filing date
 - Single or joint filing (if joint, who they filed with)
 - Attorney name and contact information
 - Objection date
 - Trustee name and contact information
 - Judge name and contact information
 - Court name and address
4. Change the Statement Group code to the one that corresponds to bankruptcy. Mark the member's address as incorrect.
 - NOTE: Optionally enter the case number in the *Reference* field.
5. If applicable, remove the member from third-party mailings.
6. If applicable, turn off the shared branching option.
7. Freeze all of the member's accounts (*pending direction from the court*).
8. If necessary, adjust the following:
 - Loan disbursement limits (to zero)
 - Loan interest rates
 - Late fees
 - Loan delinquency dates
 - Loan security codes (only if used)
9. Stop member delinquency notices from printing.

10. Stop printing of ANR notices for deposit accounts.
11. Update the following:
 - Credit bureau status code
 - Consumer Information Indicator code.
 - Underwriting comments
12. If applicable, hot card the member's ATM/debit and credit cards.
13. If applicable, unenroll the member from the following eServices:
 - Bill pay
 - Online or audio banking
 - eNotices
 - eStatements.
14. If applicable, unenroll the member from Tiered Services.
15. If applicable, redeem the member's lifetime Tiered Services points and remove the member from Tiered Services.
16. Update the member's household statistics to indicate bankruptcy.
17. Schedule a follow-up to verify that a Discharge of Debtor is received so it doesn't get overlooked.
 - Enter a memo code of BK for bankruptcy.
 - When the follow-up is complete, be sure to include the relevant information for the follow-up notes based on your credit union policy (case number, discharge date, etc.).
18. After the Discharge of Debtor is received, schedule another follow-up to verify that the case is closed.
19. Update the Consumer Information Indicator code again to reflect bankruptcy closure/ completion/dismissal.
20. File the appropriate bankruptcy documents per your credit union policy.
21. If the bankruptcy is reaffirmed per the Bankruptcy Reaffirmation Agreement, make a note for future reference using Teller comments.
22. Verify if a 1099 is required based on your attorney's suggestion.

