



# Multi-Featured Open-End Lending Update

*Regulation Z Compliance Change*

Defense Council  
of Credit Unions

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San Francisco

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# ada

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# Definition of Open-End

Regulation Z, Section 226.2 (a)(20)



Credit extended under a Plan:

1

Creditor reasonably contemplates repeated transactions

2

Finance Charge imposed from time to time on outstanding balances

3

Credit generally made available to extent outstanding balances have been repaid

***The definition has not changed.***

# Multi-featured Open-end Lending Defined

- Multi-featured, open-end lending (Open-end) is defined as a single account (i.e., Plan) with separate sub-accounts
- Multiple sub-accounts with different features and rates
  - Line of credit or share draft overdraft
  - Share or Share Certificate secured
  - New vehicle
  - Used vehicle
  - RV or Boat
  - Personal

- “Some features used repeatedly (ex: an overdraft line), others used infrequently (ex: secured credit)
- “If the program as a whole is subject to prescribed terms and otherwise meets the definition of open-end credit, such a program would be considered a single, multi-featured plan.

— Reg Z Commentary  
Section 226.2(a)(20)

# Multi-Featured, Open-End Credit

- **CU System Focused** - Credit unions use this approach to meet convenience needs of members. Used in banks infrequently
- **Standard Practice** - Present process in place for past 25+ years and affirmatively supported by Regulation Z
- **Wide Scope** - Approximately 3,500 credit unions use multi-featured, open-end lending process as their primary means of lending



# Open-end Lending Benefits

- Superior member experience
  - Convenience
  - Less paperwork
- Credit Union marketplace differentiator
  - Consistent with building on-going member relationships
  - Efficient alternative in local credit union market
  - Seamless integration of Payment Protection coverage
- Advantages over Closed-end
  - Reduced staffing
  - Increased member convenience

# Multi-Featured, Open-End Lending

- Rule Proposed

- Each sub account self-replenishing
- Deleted language that plan will be viewed as a whole and some features may be used infrequently
- Removed ability to verify each plan advance

- Final Rule

- Removed self-replenishing provision
- Kept in language that plan viewed as a whole and some features may be used infrequently
- May “verify” information in certain situations

# Final Commentary

Changed	No Change
Delete language that plan will be viewed as a whole and some features may be used infrequently	<b>Plan still viewed as a whole with some features used infrequently</b>
Each sub account <i>must</i> meet self-replenishing	<b>Plan need not be self-replenishing (proposed change was <i>dropped</i>)</b>
May “verify” information only in certain situations – but no individual underwriting	<b>Advances not an “Absolute Right”</b>
<i>Added Disclosure requirements at Plan opening</i>	
Deleted implied references to credit unions	

# What Changed

- Plan Opening
  - Account Opening Disclosure (new document)
  - Gather member information (application, credit report, etc.)
- Subsequent Advance Request
  - Request processing
  - Verification process
- Periodic Statements
  - Reporting of loan account information
- Change in Terms Notice
  - 45 Day Notice
  - Model notice
- Credit Union Processes and Procedures (varying degrees)

# What Stayed the Same?

The basic concept of multi-featured, open-end lending remains the same

- Single account (i.e., plan) with separate sub-accounts
- Plan accessed repeatedly by consumer via a number of sub-accounts with different program features and rate structures
- “Some features of the program might be used repeatedly (for example, an overdraft line) while others might be used infrequently (such as the part of the credit line available for secured credit)”
- Plan *as a whole* must be reusable
- Credit line may be reduced or an advance refused due to changes in member’s creditworthiness
- Advances not an absolute right



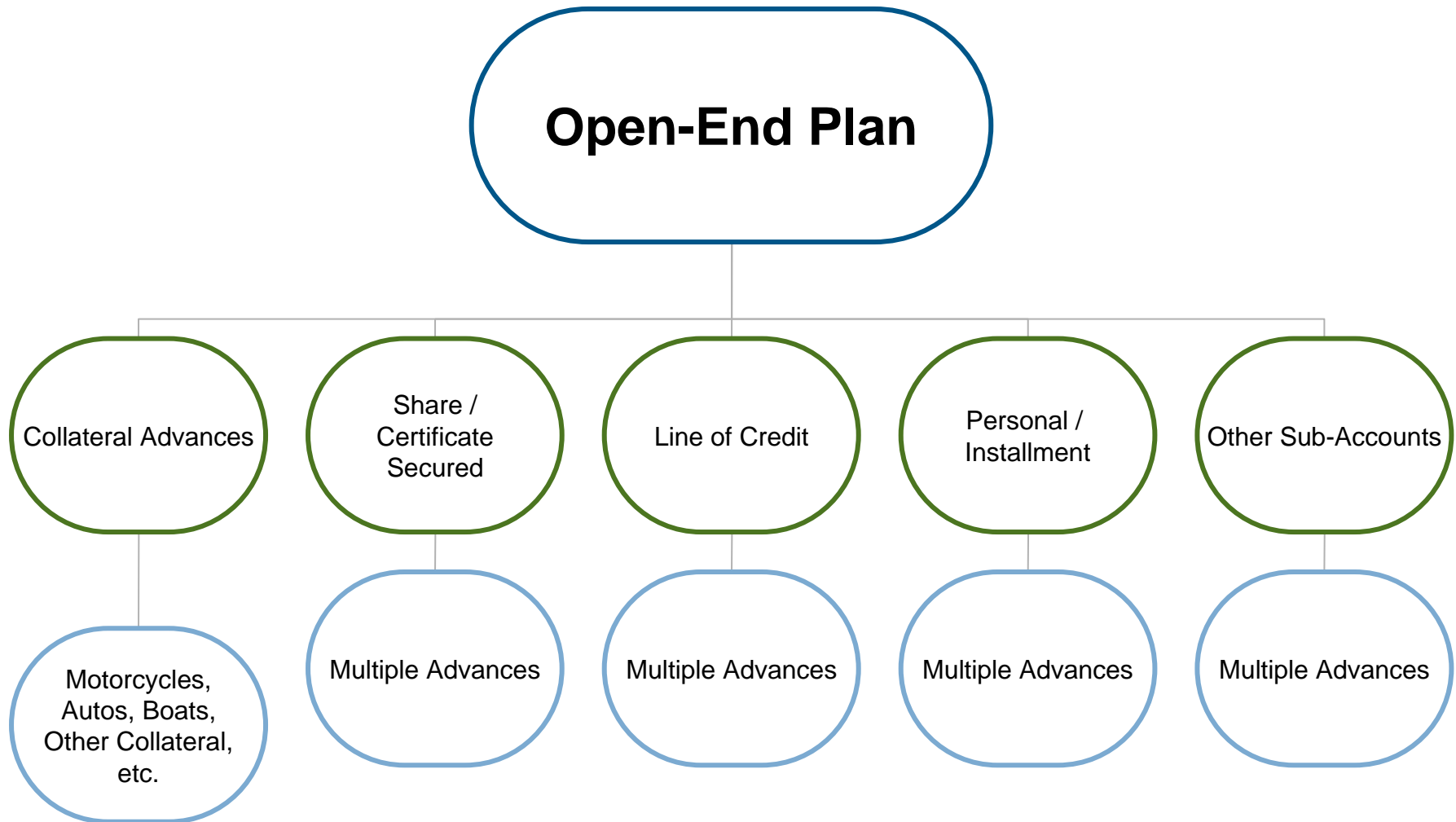
# What Was Amended?

- Added language-
  - Creditor may “occasionally or routinely” verify credit information, but not make verification a condition for a particular advance.
  - “In general, a credit line is self-replenishing if the consumer can take further advances as outstanding balances are repaid without being required to separately apply for those additional advances.”
- Disclosure changes
  - Addendum and “Initial Disclosures” must reflect actual account information and include additional details
  - Data Processors must update Periodic Statements

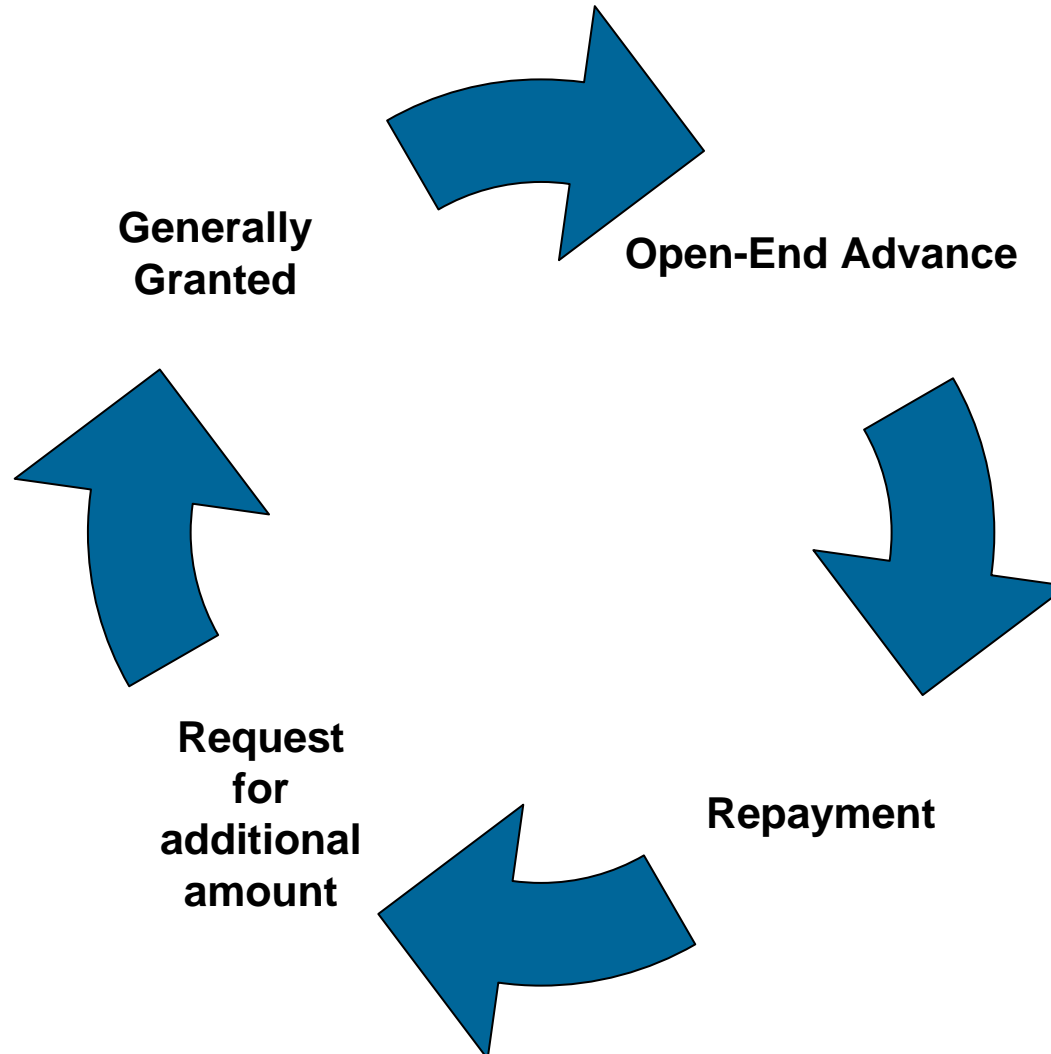
Commentary 2(a)(20)-5



# One Plan – Multiple Sub accounts



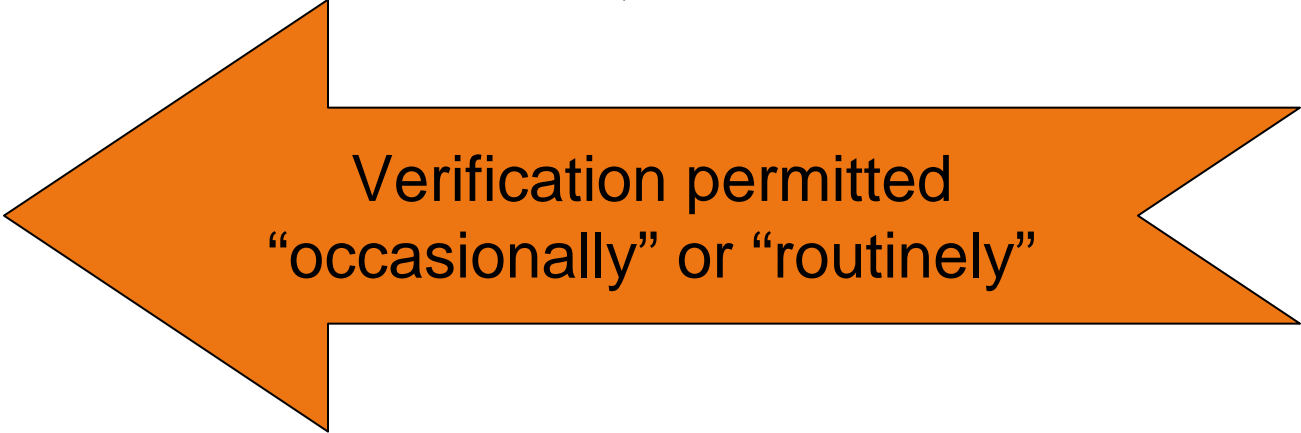
# Repeat Transactions



# Subsequent Advances and ‘Verification’



Advances not an “absolute right”



Verification permitted  
“occasionally” or “routinely”

*“Creditor may “occasionally or routinely” verify credit information, but not make verification a condition for a particular advance.”*

# What Does This Mean?

- Certain changes will be needed to credit union product and process to respond to the regulatory language
- Member convenience remains
- Credit union retains an efficient lending platform
- **Change** does not mean **gone**



# What Must Change?

- Product, policies and procedures must fit with Commentary
  - Product
    - Line of credit feature
    - Documents support open-end process
  - Policy
    - Support limited circumstances for verification and when advances can be denied
  - Procedures
    - Ensure staff is trained on open-end concepts
    - Ensure DP and other systems support policies and product



# Product changes

What will you need?

# Line of Credit Product

- Many CUs already offer an Overdraft Line of Credit (ODP) or Discretionary Line of Credit (LOC)
  - If one is not currently offered – Best Practice is to add one
  - Make available to ALL members with a Plan
  - Set limits according to risk
- Include some sort of “Frequent Use” limited verification sub-account
  - Does not require credit check up to limit

# Policy / Procedure and Paper-flow

Changes to current state

# Plan Opening Process



Member Requests Plan, Completes Application and Receives Disclosures



Application Underwritten and Creditworthiness Determined



Plan Approved

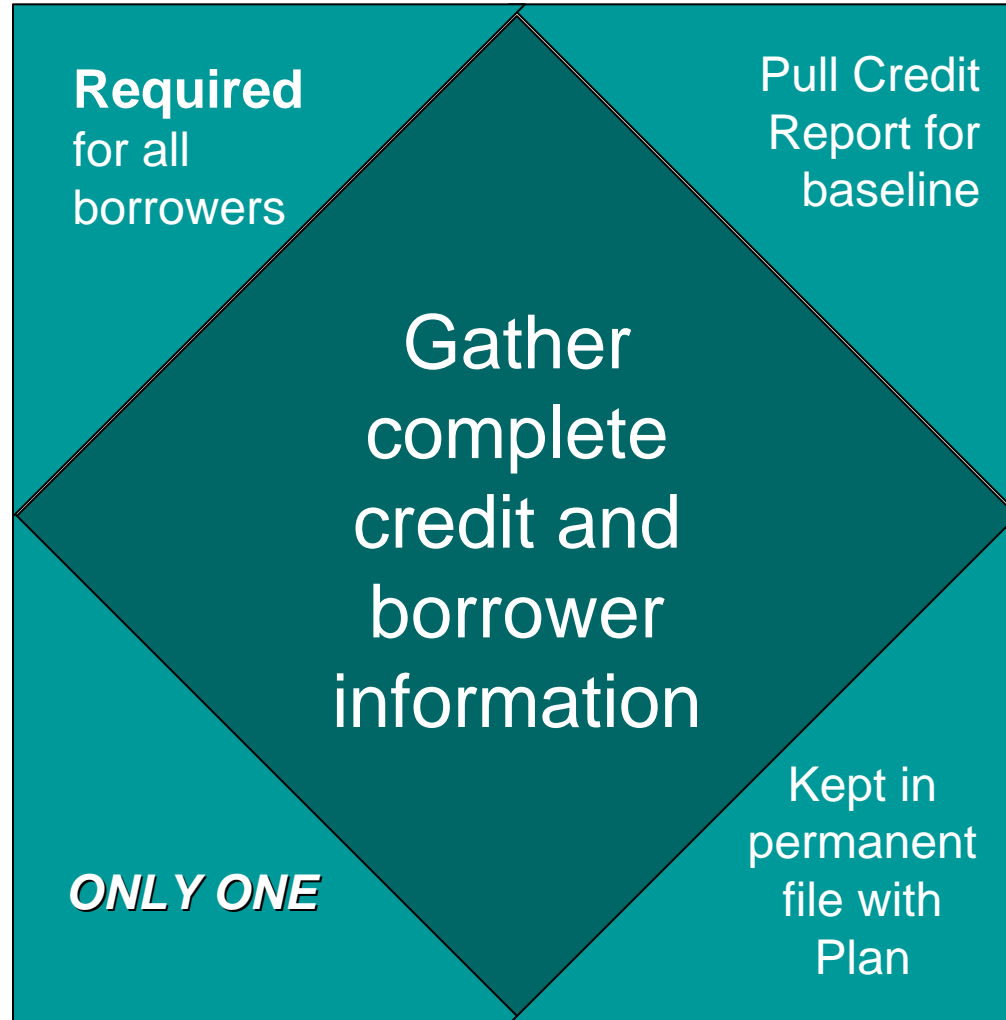
OR

Plan Denied: Adverse Action Notice sent



Plan Created: Protection offered, Documents Signed, Funds Dispersed and Documented (if applicable)

# Application



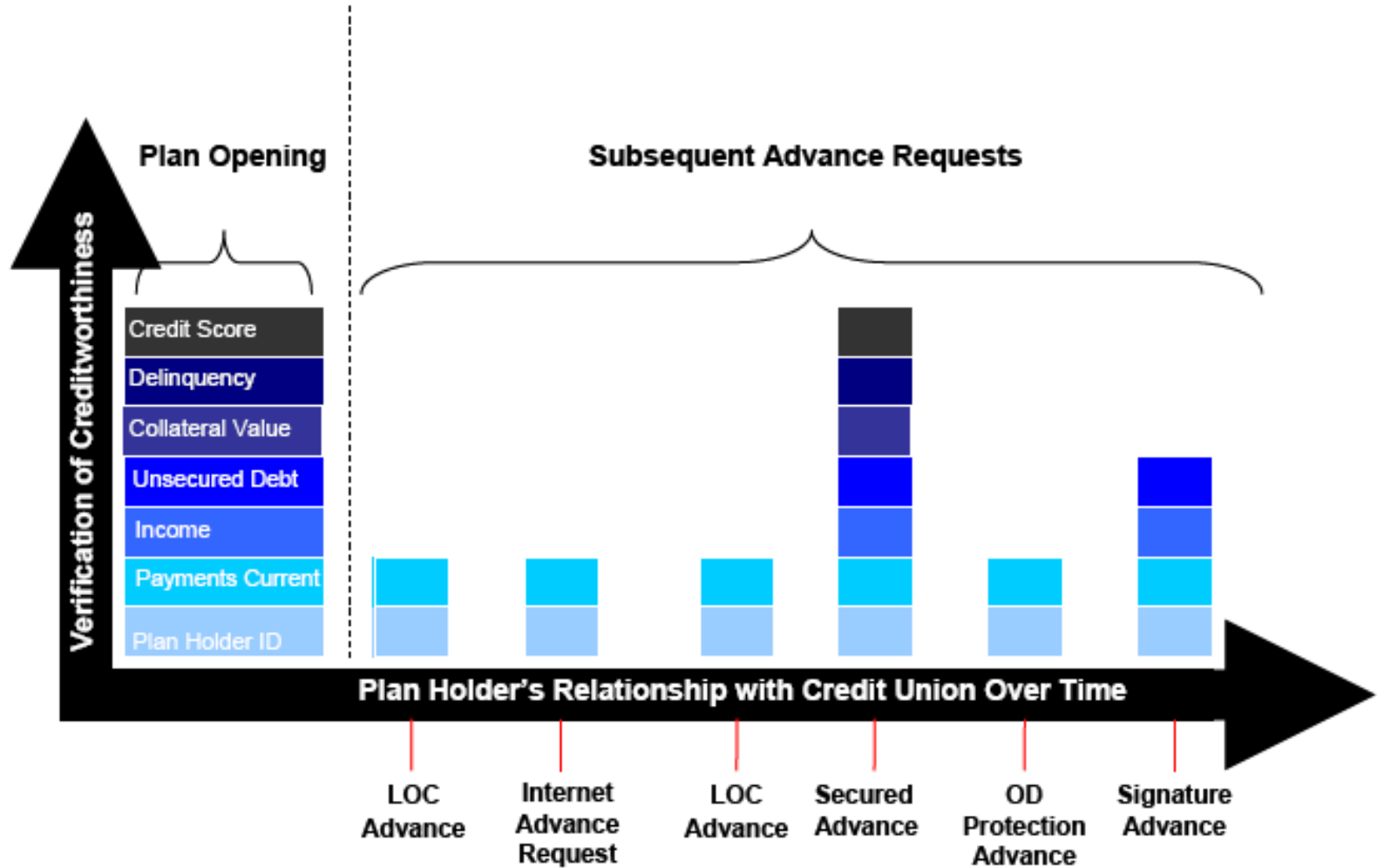
# Existing Open-End Plans

- Many existing Plans may not have had a full application completed at the time they were established
- Creditworthiness may not have been determined
- Get comprehensive borrower data, credit report and creditworthiness determination at or before next advance request

# Verification vs. Underwriting

Verification	Underwriting
Existing relationship	Lack of prior relationship – or relationship is ignored
Relevant information about borrower already known	Lender lacks information about the potential borrower
Ensures accuracy of existing (known) information and updates	“Application” gathers de novo information
Confirms continuing creditworthiness (based on policy)	Specific decision making process is applied
Lender expects to lend money – and borrower to request money	Lender does not anticipate future loans with borrower

# Data gathered and verified



# Triggered Verification Advances



Dollar Amounts / Limit Increases

Collateral

Timing

# Standard Advance Process



**NO  
SIGNATURES  
---  
NO  
APPLICATION**



**Member  
calls to  
request an  
advance**



**CU staff  
member  
checks for  
Plan on file,  
verifies  
information  
and gets  
approval**



# In a Nutshell...

Plan Opening	Verify Ongoing Creditworthiness
<ul style="list-style-type: none"> <li>• Application for plan--comprehensive data collection including credit report and underwriting</li> <li>• Ability to identify plan ownership and protection coverage election</li> <li>• Member-specific account opening disclosure provided. Offer LOC (Non-verified) sub account</li> </ul>	<ul style="list-style-type: none"> <li>• Advance requests distinguishable from separate applications for individual advances</li> <li>• Verification processes are limited to an update of a subset of information originally collected at plan opening</li> </ul>

- Majority of transactions have limited verification
- Policies and procedures identify what conditions an advance request is subject to additional verification and can be denied
- Ensure staff are trained and understand Open-End practices and benefits
- Ensure process and systems support Open-End practices
- Ensure document set supports Open-End practices

# Periodic Statements

- MONTHLY Statements (vs. Quarterly)
- Charges and Fees must be grouped and interest charges itemized by transaction type
- Described in manner consistent with consumers “general understanding”
- Payment Due Date on FRONT of first page
  - Late fee and penalty APR in close proximity
- Total fees and interest disclosed for each cycle and YTD
  - YTD feature is NEW
- Historic APR *no longer required*

# Summary

- Open-end can be a great way for Credit Unions to do lending
- Review, and if necessary, change policies, procedures and documents, to ensure they comply with the changed Commentary
- Credit union processes will need to utilize “verification” of member’s creditworthiness for certain advance requests
- Look for ways to maximize the “revolving” nature of your plan
- Ensure that your document providers, vendors, and partners understand these changes and how they impact your business
- Continue to enjoy the benefits of Open-end lending

# Other Considerations

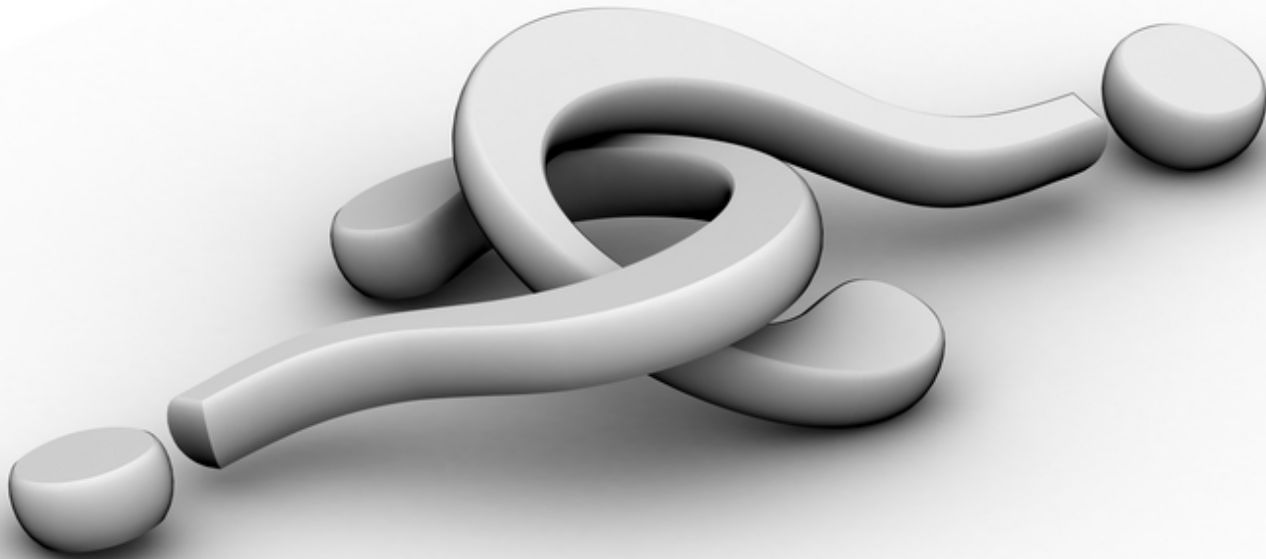
## Other points a credit union should consider:

- Collateral value verification (LTV = Loan to Value) that complies with federal, state or other applicable law
- Look for subaccounts needing little verification—Share or Share Certificate secured
- Credit Reports—key is how and when they are used
  - Plan opening: Establish credit relationship with member
  - Subsequent Advance: Update existing information (verification process)
    - Debt to income ratio, Unsecured to income ratio, credit and bankruptcy score
    - Other critical changes in member's information (new or changed)
- Distinguish plan opening from subsequent advance requests
  - Document policies and procedures
  - Majority of transactions are not being continuously verified

# Other Considerations (continued)

- Review and update credit union policies and procedures
  - When and how verification will occur
  - Trigger points that would indicate the need for verification of the member's existing data
- Staff should be trained
  - Open-end lending process and terminology
  - Benefits of Open-end to Member and Credit Union
- Update marketing and lending program materials
- Assess call centers and other remote access methods

# What Questions Do You Have?



# Resources

- [www.loanliner.com/regz](http://www.loanliner.com/regz)
- Lending Resource Center
  - Alerts, information, and more
  - Available to LOANLINER customers
  - On-line registration
- Compliance Support Hotline
  - 800/356-5012
- Compliance Journal
  - Subscription based publication



# When must we comply?

- The requirement to comply with the latest Reg Z changes is July of 2010
- If any of the “new” changes are implemented before that time – all of the new requirements must be met



# Tools on Lending Resource Center

<i>Compliance, A Journal for Credit Unions</i> Spring 2009 edition*	Special edition of the <i>Journal</i> released to credit unions in March 2009.
<i>Compliance, A Journal for Credit Unions</i> Summer 2009 edition*	Super sized edition of the <i>Journal</i> not even off the presses yet.
MFOEL At A Glance	A high-level overview of MFOEL with the changes to Reg Z incorporated.
MFOEL Verification Matrix	A tool to assist you in analyzing and determining your policies and procedures on verifying borrower data for advance requests. This tool will help you make informed credit decisions when processing advance requests, pricing and approving or denying advance requests within the new scope of Reg Z. Use this tool with the workbook listed below.
MFOEL Documents	Loan documents to be used within the new framework of the regulation.
MFOEL FAQs	Frequently asked questions we've received from credit unions and our employees, and the answers.
Moving from Open End Lending to Closed End Lending... Things to Consider	An overview of the implications you'll want to consider in making your evaluation and ultimate business decision to continue using MFOEL or move to another lending platform such as closed-end.
MFOEL and Reg Z – A Workbook for Credit Unions	A guide to use in assessing how the new language in Reg Z may impact your lending programs. It's designed to assist you in comparing your policies, procedures, and documents current-state vs. after complying with the new language. Upon completion, you should be able to understand where adjustments to policies, procedures and documents are needed to carry out MFOEL in the future.

# Recap

Review the regulatory changes impacting Multi-Featured Open-End Lending

Discuss key issues and areas impacted in the open end lending process including plan opening and verification of credit worthiness

Identify areas in your lending processes that you will need to assess in order to comply with changes to the regulation

Preview Best Practices for processes and procedures

Identify the tools and resources available to assist you



**Common Purpose. Uncommon Commitment.**