

## Chapter 11

### 3. Document of Resolution (DOR)

The AIRES DOR module enhances the administrative record as it improves the tracking and reporting of unresolved DOR items. Reports generated from this data summarize and track problem areas to highlight the resolution of outstanding problems. The [AIRES 2005 User's Manual](#) addresses proper use of the DOR module. Examiners will make full use of the DOR module.

NCUA requires (by the lease agreements) State Supervisory Authorities (SSAs) who use NCUA issued laptops to use the AIRES program, and specifically the DOR module. During the course of WCC 26 reviews, NCUA examiners will add any problem codes (and associated corrective action) needed beyond those input by the SSA. If the SSA did not input any problem codes into the DOR module, but provided a DOR to the credit union, the NCUA examiner will input the all of Document of Resolution items provided by the SSA into the DOR module. This includes any DORs issued by the SSA that do not meet the NCUA definition of a DOR.

#### A. Examiner Responsibilities

To ensure a full administrative record of significant problems, examiners will:

- Create DOR items and assign problem codes using the DOR module in AIRES.
- Ensure DOR items are consistent between the DOR module and the DOR.
- Require credit union management to submit a written action plan, within 30 days of receipt of the official examination report, if they do not agree to the DOR or adopt the DOR at the joint conference. If communication and negotiation efforts are unsuccessful and the DOR is not adopted, examiners will require management to provide an alternative resolution plan and note management's failure to adopt the DOR in the Confidential Section. Elevated administrative action will be used if management's action plan is insufficient to address the problem(s) and the problem(s) remain unresolved.

#### B. Review of Outstanding DOR Items

Recurring or unresolved problems are continually identified as leading to credit union failures and losses to the NCUSIF. Examiners must ensure that items significant enough to be included in a DOR are resolved in a timely manner. The following conditions apply to all credit unions with recurring or unresolved DOR items, regardless of CAMEL Code:

- Ensure all prior examination DOR items are properly noted as resolved, unresolved, or no longer applicable, and appropriately documented within the DOR module.

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- Ensure repeat problem areas are properly noted with accurate comments and accurate dates of identification. When the original identification date is used for repeat DOR items, examiners will ensure the corrective action is the same as the previous DOR (not necessarily the wording – but the type of corrective action).
- Examiners will document credit union officials' failure to adequately resolve problems by placing an asterisk beside the repeat DOR item and footnote it with the following statement:

“This is either a repeat or carry-over DOR. Please see the DOR Status Update document for specific information on individual DOR items.”

- When credit unions have recurring or unresolved DOR items, examiners must consider the quality of management and weigh management's failure to resolve problems in the management CAMEL component and overall composite ratings.
- If a credit union fails to take corrective action within the timeframe stated in the DOR, the credit union will be required to submit a written response to the examiner. This applies to all credit unions regardless of CAMEL code. If the credit union fails to take the corrective action agreed to at the last examination/supervision contact, examiners will document in the Confidential Section why management failed to take corrective action. (this is in addition to wherever the examiner deems appropriate or necessary in the open sections of the exam report).
- If the credit union fails to address outstanding DOR items, the examiner will recommend additional enforcement action, such as a Regional Director Letter (RDL), Letter of Understanding and Agreement (LUA), or Preliminary Warning Letter (PWL). If the supervisor does not concur with additional enforcement action, examiners will document the rationale in the Confidential Section. Examiners will include the nature of the problem, agreements to correct the problem, their supervision plans, and the reason no additional enforcement action was pursued.

### **C. DORs Not Adopted**

Examiners will work with credit union management to develop corrective action plans. However, if officials do not adopt the DOR or a specific corrective action plan at the exit meeting or joint conference, examiners will document the officials' disagreement or inaction using the following footnote:

“These plans for action, although not approved by the credit union officials, are recommended to correct the area of concern. The officials have agreed to review the plans and to notify the Regional

Director, National Credit Union Administration, (enter appropriate address), by (enter date), of the actions to be taken.”

#### **D. Reporting Identification Date for Problem Codes**

Examiners will input all problems meeting the criteria for a DOR item into the AIRES DOR module for problem code tracking purposes. The AIRES DOR module and corresponding problem codes are to track repeat problems and DOR corrective action items, not necessarily continued areas of concern.

Examiners will complete the problem code area in the AIRES DOR module, including the date the problem was first identified. The problem code and associated date will be specific to the problem and not just the problem area or risk factor. When completing the problem code areas in the AIRES DOR module, examiners will list the effective date the specific problem was originally identified.

When a problem was identified in the past, but was resolved and remained resolved for a period of time (at least 1-2 contacts) examiners should not use the original date identified, but code it as a new problem. Examiners should ensure they are recording the corrective actions taken to resolve specific problems and not combine similar problems as an ongoing problem.

For example, a small credit union may have had internal control problems for 10 years. NCUA needs to track whether the credit union is complying with the specific DOR corrective action plans issued at each exam. At the 06/30 examination, the examiner issued a DOR corrective action plan to cross train employees and increase segregation of duties. When the examiner performs a follow-up examination effective 12/31, the examiner finds the credit union is in compliance with this corrective action plan and the examiner should show this DOR item as resolved. During the 12/31 follow-up examination, the examiner issues a DOR corrective action plan for the supervisory committee to expand their review area. The date identified for this DOR item is 12/31 since it is a new problem with a new corrective action plan. However, this does not mean that internal controls are not an ongoing problem in this case. Examiners should acknowledge this and expand the scope as necessary, draft the DOR to address the root cause of the problem, or reflect the ongoing risk in the risk ratings and CAMEL codes.

Credit unions that have a history of similar or the same problems, even if there are long gaps between them, may warrant expanded review of that area or a DOR to address the root cause of the problem. Recurring problems are an indication that the root problem needs to be addressed. For example, if an examiner writes a DOR to fund the Allowance for Loan and Lease Loss (ALLL) account and determines at a follow-up contact, the officials properly funded the ALLL account, this DOR should be marked as “resolved”. If the examiner notes at the next examination or contact that the ALLL is again underfunded, the examiner should develop a new DOR, with a new identification date, that addresses the root cause of the underfunded ALLL (e.g. inadequate methodology, no internal controls to ensure the expense is recorded, etc.).

When a credit union has partially complied with a DOR item, the examiner must determine if the remaining corrective actions should still be included in the DOR. If an examiner determines it does not need to remain in the DOR, the examiner will mark the DOR as resolved; otherwise, the examiner will mark the DOR item as unresolved and carry forward with the same date identified. If the examiner wishes to re-write the DOR corrective action plan, they should mark it as resolved, noting in the comment section of the DOR module that only part of the DOR corrective action plan has been resolved, and then create a new DOR corrective action plan to address the remaining problems with the original date identified.

#### **E. Process for Requiring a Credit Union to Cease an Activity**

Examiners will use the process below when issuing DORs that require a credit union to cease or suspend an activity.

- a. Examiners will obtain SE approval and document approval or disapproval in the Confidential Section when issuing DORs that require the credit union to cease an activity. Depending on the severity of the situation, escalated administrative action (RDL, LUA, C&D, etc.) may be necessary.<sup>1</sup>
- b. The DOR should clearly outline the steps the credit union must take to resume the activity.
- c. Based on the timeframe for completion provided to the credit union, examiners should identify when they will perform a follow-up contact (on or off-site) to determine if the credit union has complied with the DOR item. This time should be included in the “Plans and Budget” tab of the Exam Scope Module.
- d. The examination report should instruct the credit union to contact the Regional Director in writing when they have taken the steps outlined in the DOR item and want to resume the activity. The Regional Office will then notify the examiner and SE.
- e. After the credit union has informed NCUA they are in compliance with the DOR, examiners will perform a contact (on or off-site) within 120 days of notification from the credit union, to assess the credit union’s compliance with the DOR and whether the DOR can or should be lifted. The ARD may approve exceptions to the 120-day follow-up requirement.
- f. Examiners will complete an AIRES upload and issue a report to officials notifying them of whether they have met the requirements to resume the activity. If the credit union has not adequately corrected the problem(s), examiners will outline the remaining steps the credit union must take to resume the activity.

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<sup>1</sup> For example, if a credit union has placed a large percentage of their assets in member business loans in a two-month period without adequate controls, policies, or procedures, a Cease and Desist order may be warranted in addition to a DOR.

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The above process does not prohibit the examiner from issuing DOR corrective action items to address the residual risk of the activity with timeframes for completion that correspond with the examiner's supervision plan.

### **F. Marking DOR items as No Longer Applicable (NLA) in the DOR Module**

There may be instances when an examiner will need to mark a DOR item as "NLA" rather than "Resolved" or "Unresolved". Examiners will not use "NLA" if the credit union has resolved the problem. Examiners must provide a comment when marking an item as "NLA".

Examples of when it may be appropriate to use "NLA" include:

- The DOR required the credit union to perform due diligence on a new indirect lending program. When the examiner returns, the credit union has discontinued this program.
- A credit union is transferred to Special Actions because of a significant deterioration in the financial condition. To avoid overwhelming the credit union and to focus on immediate threats, the PCO marks a number of DOR items as "NLA" because they have not been resolved, but other problems threatening the viability of the credit union must be addressed first.

### **G. Quality Control**

E&I will periodically review reports and sample examinations to ensure compliance. E&I will notify the regions of any long-standing problems and DOR items. Regions are responsible for following up with field staff.