May 11, 2026

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RE: Records Presentation Program and Appendices—Record Retention Guidelines; Catastrophic Act Preparedness Guidelines (RIN 3133-AF61)

Dear Ms. Conyers-Ausbrooks,

On behalf of its member credit unions, the Cooperative Credit Union Association, Inc. ("Association") appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) notice of proposed rulemaking on federally-insured credit unions' (FICUs') records preservation and catastrophic act preparedness, which is "Round Seven" of NCUA's Deregulation Project. The Association is the state trade association representing approximately 200 state and federally-chartered credit unions located in the states of Delaware, Massachusetts, New Hampshire, and Rhode Island, which further serve over 5 million consumer members. The Association developed these comments in consultation with our members.

The Association's High-Level Comments

- The Association supports the NCUA Board's proposal to repeal the "Record Retention Guidelines" in Appendix A and the "Catastrophic Act Preparedness Guidelines" in Appendix B to Part 749 of NCUA Rules and Regulations as well as moving to a more principles-based approach for FICUs' record retention and catastrophic act preparedness requirements in general.

- Appendix A and Appendix B, adopted in 2001 and 2007 respectively, are unreasonably burdensome on credit unions because they are overly prescriptive and have not kept pace with technological developments. NCUA "guidance" should also be non-binding pursuant to Part 791, Appendix A to Subpart D of NCUA Rules and Regulations. This is inconsistent with placing "guidance" in the Code of Federal Regulation, as is currently the case with the Appendix A and Appendix B "Guidelines."

- The Board should finalize this rule as proposed except with respect to the "records preservation log" in proposed Section 749.2(a)(3) because this requirement would impose unreasonable paperwork burdens. Credit unions' disaster preparedness and record retention policies and existing data processing system logs should be sufficient.

The Association's Detailed Comments

(1) Are the proposed definitions of vital member services and vital records helpful and sufficient? If not, please provide alternative suggestions.

Yes, we support the definitions of "vital member services" and "vital records" in proposed Section 749.1 and urge the Board to finalize this provision as proposed. The proposed definition of "vital member services" is highly similar to its current definition except that the current list of "vital member services" is made illustrative (i.e. listed "such as").

In addition, the current definition of "vital records" would split the requirements of existing subsection (b) into two subsections, which would make the rule easier to understand. Existing subsection (b) requires the credit union to retain copies of "[a] financial report, which lists all of the credit union's asset and liability accounts and bank reconcilements, current as of the most recent month-end."

As proposed, existing subsection (b) would be broken up into two subsections with an amended subsection (b) addressing the financial report requirement and a new subsection (c) addressing the bank deposit reconciliation requirement.

In response to the Association's survey to its members in 2024 regarding the Board's Advanced Notice of Proposed Rulemaking (ANPR) on this regulation, a majority of the Association's members who responded to our survey agreed that the existing definition of "vital records" was appropriate. The proposed definitions are highly similar to the existing ones. We therefore urge the Board to finalize this provision as proposed.

(2) The proposed § 749.2(a)(3) requires that a credit union's procedures for its vital records preservation program contain a records preservation log, which may be in electronic or other format at the credit union's discretion. The regulation currently requires a records preservation log to specify each vital record stored and its name, storage location, storage date, and name of the person sending the record for storage. The Board believes it is important for a credit union and for the agency to know where these records are stored. However, the Board is interested in feedback on whether the provision is unnecessarily prescriptive in mandating other requirements, such as storage date and name of the person sending the record for storage.

The Board should finalize this rule as proposed except with respect to the "records preservation log" in proposed Section 749.2(a)(3) because this requirement would impose an unreasonable paperwork burden on credit unions. The credit union's disaster preparedness and record retention policy should identify the locations of where key "vital records" are stored and existing automated data processing system

logs should serve as sufficient documentation with respect to changes made to those data storage systems.

The credit union, as an institution, would remain liable under the rule for any records lost or improperly destroyed no matter which individual employee or official might be at fault. The credit union could also be fined as a result under Section 205 of the Federal Credit Union Act. In most cases, it should be straightforward to determine which individual may have committed a mistake, or an intentionally wrongful act, by consulting the computer system's user logs.

The credit union's disaster preparedness and records retention policy should already identify the location of its "vital records," making a "records preservation log" redundant in that respect.

To the extent that the "records preservation log" is intended to create an audit trail to help detect fraud that goes beyond existing user logs, unless the records preservation log is automated and not editable by system administrators it would be just as susceptible to falsified entries as any other system. Most existing systems' automated user logs should not be editable in this fashion. Existing systems' user logs also would most often be defeated by an individual using another user's credentials without permission. Examiners interviewing the individuals involved would likely be a more productive way to get to the bottom of a suspicious records-loss scenario.

The "records preservation log" in proposed Section 749.2(a)(3) should therefore not be included in the final rule.

(3) Does the proposed repeal of Appendices A and B clarify the scope of part 749 and reduce the burden and compliance costs for preserving vital records?

Yes, the repeal of the "Guidelines" in Appendix A and Appendix B should clarify that this guidance is not a regulatory requirement as well as reduce compliance burdens and costs on credit unions. In response to our 2024 survey regarding the Board's ANPR on record retention, our members reported examiners treating Appendix A and Appendix B as regulatory requirements instead of as non-binding supervisory guidance.

In a time of rapid technological change, we fully support the Board moving to a less prescriptive, more principles-based regulatory approach. Credit unions should be responsible for complying with Part 749's requirements to preserve their records, but it not necessary to include detailed rules to achieve such compliance (whether or not they are styled as "Guidelines"). Credit unions will be institutionally responsible for any compliance failures, but should have flexibility in terms of how they choose to comply with these rules.

We urge the Board to finalize the repeal of the Appendix A and Appendix B "Guidelines" as proposed.

(4) The Board is interested in obtaining feedback from commenters on whether to include a reference in § 749.2 for FICUs to consult legal counsel when setting minimum retention periods. This suggestion is currently made in Appendix A—Record Retention Guidelines. However, with the removal of the record retention guidelines, would it be helpful to remind credit unions in the text of the regulation that they can, at their discretion, consult with legal counsel when setting minimum retention periods? Or do commenters believe that such a reference is unnecessary and would be construed as a requirement to consult with counsel when setting minimum retention periods?

The Association does not support the Board suggesting in the rule that credit union's employ legal counsel to determine how long it should retain records because credit unions and examiners would likely interpret that suggesting as a requirement that the credit union employ a lawyer on this issue.

Requiring credit unions to hire lawyers to help them develop records retention schedules would also be overkill in terms of professional expenses—especially for small credit unions—because the same compliance information can be provided to credit unions at much less cost. Our members' dues, for example, give them access to the Association's League Infosight compliance information service. Other credit union trade associations provide their members with access to similar compliance information look-up databases.

Credit unions only need legal advice when their particular facts and circumstances are important to the regulatory question at issue. But that's not the case here: All credit unions—at least by charter type—would presumably have essentially the same record retention requirements under various laws. Many lawyers are also unfamiliar with credit union compliance requirements.

This is a classic case for a credit union compliance article on record retention laws and best practices. Credit unions should not have to bear the expenses of hiring legal counsel just to develop a record retention schedule.

(5) As stated above, the Board considered rescinding part 749 as an alternative to the current proposal. Commenters are invited to provide feedback on this alternative.

The Association believes that the main text of Part 749 is helpful to credit unions and credit union members as well as to the credit union system at large. While it is uncommon for any individual credit union to experience a catastrophic act, such as a fire, earthquake, or a severe storm, these events happen with predictable regularity on a systemwide basis.

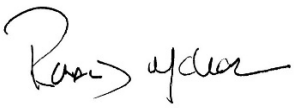
Having the Part 749 regulatory framework in place helps make sure that credit unions are prepared when disaster strikes. This helps prevent reputational damage not only to that credit union but also to credit unions in general.

If members of credit unions suffering from a disaster, like a hurricane or nor'easter, are unable to access their money for an extended period, that situation could lead to runs on healthy credit unions if those concerns are imputed to credit unions generally. For example, the closure of the Rhode Island Share and Deposit Insurance Corporation (RISDIC) in the early 1990s resulted in a temporary "bank holiday" for state-chartered credit unions there that caused members of local federal credit unions to be concerned too.

While we believe that credit unions should have flexibility with respect to how to comply with the requirements of Part 749, the main body of Part 749 should be retained. Only the Appendix A and Appendix B "Guidelines" should be repealed.

Thank you for the opportunity to comment on the NCUA's notice of proposed rulemaking on records retention and catastrophic act preparedness. If you have any questions or desire further information, please do not hesitate to contact the Association at (508) 481-6755 or govaff-reg@ccua.org.

Sincerely,



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