December 22, 2025

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

RE: Prohibition on Use of Reputation Risk by NCUA (RIN 3133-AF67)

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 (NCUA) Board's proposed rule on Prohibition on Use of Reputation Risk. The Association is the state trade association representing approximately 170 state- and federally chartered credit unions in Delaware, Massachusetts, New Hampshire, and Rhode Island, which serve over 4.4 million consumer members. The Association developed these comments in consultation with our members.

The Association's High-Level Comments

- The Association strongly supports the NCUA Board's proposal to eliminate "Reputation Risk" from its supervisory program consistently with Executive Order 14331 ("Guaranteeing Fair Banking for All Americans").

- The Board should clarify that the term "Adverse Action" includes actions that negatively impact credit union members and accountholders, and that the term "Institution" includes Credit Union Service Organizations (CUSOs).

- Reputation risk has in the past also restricted some credit unions' access to correspondent banking channels (such as SWIFT) based on perceived reputational risks, resulting in those credit unions being "de-banked."

The Association's Detailed Comments

1. Do commenters believe the prohibitions capture the types of actions that add undue subjectivity to supervision based on reputation risk? If there are other prohibitions that would be warranted, please identify such prohibitions and explain.

Yes, the Association agrees that the list of prohibitions generally captures the types of actions typically premised on "reputation risk." We also agree that these "reputation risk" factors are "too open to interpretation."

2. Is the definition of "adverse action" in the proposed rule sufficiently clear? Should the definition be broader or narrower? Are there other types of agency actions that should be included in the list of "adverse actions?" Does the catch-all provision at the end of the definition of "adverse action" appropriately capture any agency action that is intended to punish or discourage credit unions on the basis of perceived reputation risk? Is such catch-all provision sufficiently clear?

We believe that the definition of "adverse action" should be clarified in relation to the credit union's members and non-member account holders. While the preamble to the proposed rule and the definition of "doing business with" make it clear that the Board's intent is to protect credit union members and accountholders, the proposed definition of "adverse action" is unclear on this point. The proposed definition reads:

> "(A) any negative feedback delivered by or on behalf of the NCUA to an institution, including in an NCUA issued report of examination or a formal or informal enforcement action;
>
> (B) a downgrade, or contribution to a downgrade, of any supervisory rating, including, but not limited to:
>
> (i) any NCUA rating under the CAMELS ratings system;
> (ii) any NCUA rating under any other rating system;
>
> (C) a denial of a filing under any of the NCUA's regulations;
>
> (D) inclusion of a condition on a share insurance application or other approval;
>
> (E) imposition of additional approval requirements;
>
> (F) any other heightened requirements on an activity or change;
>
> (G) any reclassification of a well-capitalized federally insured credit union or imposition of a discretionary supervisory action under NCUA's prompt corrective action rules (12 CFR 702); and
>
> (H) any action that negatively impacts the institution, or an institution-affiliated party, or treats the institution differently than similarly situated peers."

The Association urges the Board to clarify Subsection (H) by adding "a member or account holder" before "an institution-affiliated party" so that Subsection (H) reads as follows with the <u>underlined text added</u>:

> "(H) any action that negatively impacts the institution, or <u>a member, an accountholder, or</u> an institution-affiliated party, or treats the institution differently than similarly situated peers."

The Association believes this clarification is warranted because Executive Order 14331 in intended to protect all Americans, including consumers as well as businesses.

This clarification would also be consistent with the proposed rule's definition of "doing business with" that expressly mentions credit union members and accountholders.

Further, the definition of "institution-affiliated party" in Section 206(r) of the Federal Credit Union does not include ordinary credit union members.

Instead, Section 206(r) limits the term "institution-affiliated party" to "any committee member, director, officer, or employee of, or agent for, an insured credit union" as well as the credit union's consultants and joint venture partners, and sometimes also independent contractors (but only if the independent contractor has violated the law or committed a breach of fiduciary duty or an unsafe and unsound practice).

We urge the Board also to mention ordinary credit union members and accountholders, in addition to credit union officials and consultants, etc., in the final definition of "adverse action."

3. Are commenters aware of any other uses of reputation risk in supervision that should be addressed in this proposed rule? If so, please describe such uses and their effects on credit unions.

Reputation risk has in the past also restricted some credit unions' access to correspondent banking channels—resulting in the credit unions themselves being "de-banked"—because of the correspondent banks' perceived reputational risks associated with their "customers' customers," i.e. the credit unions' members, in the context of Bank Secrecy Act (BSA) customer due diligence requirements unrelated to Office of Foreign Asset Control (OFAC) sanctions compliance.

This has occurred most frequently in the case of international correspondent banking relationships involving the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

While corporate credit unions have generally not "de-banked" natural-person credit unions based on reputation risk, we believe such conduct should be prohibited for both correspondent banks and corporate credit unions.

4. Do commenters believe the definition of "reputation risk" should be broadened or narrowed? If so, how should the definition be broadened or narrowed? Please provide support for any suggested changes.

The Association strongly supports the proposed definition of "reputation risk" based on the concern that an "action or activity" (or the lack thereof) could "negatively impact public perception" without negatively impacting the credit union's "financial condition."

5. The proposed definition of "reputation risk" includes risks that could negatively impact public perception of a credit union for reasons unrelated to the credit union's

financial condition. Should this be broadened to include reasons unrelated to the credit union's operational condition?

No, we believe that the definition should be based on the "financial condition" of the credit union because "operational condition" implies reputation risk could still be used as a basis for adverse actions premised on non-financial operational considerations, such as compliance risk. Existing safety and soundness, consumer protection, and BSA rules already adequately regulate compliance matters that have operational implications but do not present material financial risks.

6. Should the list of relationships that would constitute "doing business with" include additional types of relationships?

We believe that the definition of "doing business with" is sufficiently broad because it includes the catch-all provision encompassing: "any other similar business relationship that involves an institution's member or accountholder or a third party."

7. Does the removal of reputation risk create any other unintended consequences for the agency or institutions?

No, the Association believes that the agency's supervisory program sufficiently addresses safety and soundness, consumer protection, and BSA-related risks through other rules and regulations. Eliminating reputation risk will reduce regulatory burdens on credit unions by decreasing regulatory uncertainty.

8. Would the proposed rule have any costs, benefits, or other effects that the agency has not identified? If so, please describe any such costs, benefits, or other effects.

The Association believes that the proposed rule will reduce credit union compliance costs because it will reduce regulatory burdens, however, we have not performed an economic analysis to quantify the amount of those savings.

9. Should the definition of institution be broadened or are there any other categories of activities that should be excluded from the scope of the rule?

The Association urges the Board to clarify that the term "institution" includes Credit Union Service Organizations (CUSOs) because NCUA does not regulate CUSOs per se, rather the agency "reviews" CUSOs under its Part 712 CUSO rules, which regulate federally-insured credit unions' investments in or loans to CUSOs. *See* 12 C.F.R. § 712.1(a) ("This part establishes when a federal credit union (FCU) can invest in and make loans to credit union service organizations (CUSOs). CUSOs are subject to review by NCUA…").

As such, a CUSO is not likely "an entity for which the NCUA Makes or will make supervisory determination or other decisions, either solely or jointly," as the proposal would define "Institution." Nevertheless, CUSOs must contractually agree to comply with the Part 712 regulation, *see* 12 C.F.R. § 712.3, and the NCUA has tremendous regulatory influence over CUSOs and their activities indirectly even if NCUA does not

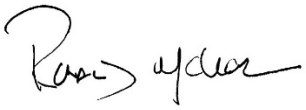
technically make "supervisory determination or other decisions" with respect to CUSOs because the agency does not have direct supervisory oversight of CUSOs.

The Association urges the Board to clarify that the term "Institution" can include the credit union's subsidiary CUSOs by revising the definition as follows:

> "Institution" means an entity for which the NCUA makes or will make supervisory determinations or other decisions, either solely or jointly, and includes any subsidiary thereof."

Thank you for the opportunity to comment on the NCUA Board's proposed rule on Prohibition on Use of Reputation Risk. 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,



Ronald McLean
President/CEO
Cooperative Credit Union Association, Inc.
rmclean@ccua.org