



May 10, 2007

Mary F. Rupp, Esq.
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comments on Proposed Changes to Part 748 and Part 749

Dear Ms. Rupp:

U.S. Central Federal Credit Union (“U.S. Central”) appreciates the opportunity to respond to the National Credit Union Administration’s proposed revisions to Part 748 and Part 749 of NCUA’s Rules and Regulations as published in the March 27, 2007, Federal Register (the “Proposed Rules”). The Proposed Rules establish minimum standards for preserving vital records and include recommendations concerning restoration of certain member services considered vital to a credit union’s continued operation. In general, U.S. Central believes the Proposed Rules strike a reasonable regulatory balance that would permit and enhance the safe and sound operation of credit unions. However, we do have a few comments and suggestions that we believe would be beneficial to credit unions while recognizing NCUA’s valid regulatory concerns.

Part 748 – Report of Catastrophic Act

Part 748.1(b) currently requires a federally-insured credit union to notify the NCUA within 5 business days of any catastrophic act that occurs at its office(s). A catastrophic act currently is defined as “any natural disaster such as a flood, tornado, earth-quake, etc., or a major fire or other disaster resulting in some physical destruction or damage to the credit union.” Under the Proposed Rules, that definition of a catastrophic act would be clarified to include any event causing an interruption in vital member services for more than two business days.

U.S. Central supports the proposed revision to Part 748.1(b) and agrees that it will clarify for credit unions when catastrophic act reporting is required, thus enhancing regulatory compliance. However, for even greater clarity, U.S. Central suggests that the definition of “vital member services” set forth in the proposed revisions to Part 749.1 also be incorporated by reference into Part 748.1(b). As presently proposed, that definition of “vital member services” applies only to Part 749; there is no definition of that term in proposed Part 748.1(b).

Part 749 – Records Preservation Program and Catastrophic Act Preparedness Guidelines

Part 749 currently requires federally-insured credit unions to establish and maintain a vital records preservation program. Appendix A to Part 749 sets forth record retention guidelines. The revisions proposed to Part 749 include several changes to format and grammar that clarify the rule's language. As part of those clarifications, new definitions are proposed in Part 749.1, including a definition of "vital member services." While that definition is clear and straightforward, as currently proposed it is applicable only for purposes of Part 749. As noted above, because the term "vital member services" is also included in the new language proposed for Part 748, U.S. Central respectfully suggests that the definitions proposed in Part 749.1 be applicable to both Part 749 and Part 748.

The Proposed Rules also include a new Appendix B to Part 749 – Catastrophic Act Preparedness Guidelines. In its summary of the proposed changes, the NCUA Board notes that it has previously issued considerable guidance on disaster preparedness which parallels preparation for a catastrophic act, as follows: *Letter to Credit Unions 01-CU-21* Disaster Recovery and Business Resumption Contingency Plans; *Letter to Credit Unions 03-CU-07* FFIEC Release of Information Technology Examination Handbook; *Risk Alert 06-Risk-01* Disaster Planning and Response; *Letter to Credit Unions 06-CU-06* Influenza Pandemic Preparedness; *Letter to Credit Unions 06-CU-10* NCUA's Information System and Technology Program – Business Continuity Planning Questionnaire; *Letter to Credit Unions 06-CU-11* Interagency Guidance Lessons Learned By Institutions Affected by Hurricane Katrina; and *Letter to Credit Unions 06-CU-12* Disaster Preparedness & Response Examination Procedures.

In the Proposed Rules, the NCUA Board requested that commenters provide feedback on the usefulness or need of including a new appendix providing recommended information credit unions could use in preparing for a catastrophic act. U.S. Central believes the considerable guidance previously issued by the NCUA, as delineated above, already provides credit unions the information necessary for preparing for a catastrophic act. Correspondingly, U.S. Central does not believe that the Catastrophic Act Preparedness Guidelines proposed as new Appendix B to Part 749 are necessary and would be of limited additional help or utility to credit unions.

Nonetheless, if those guidelines are appended as part of Part 749, U.S. Central suggests a minor revision to a portion of those guidelines. Included in the proposed guidelines are five recommended elements for a program to prepare for a catastrophic act. The first and second of those five elements are:

- (1) A business impact analysis to evaluate potential threats;
- (2) A risk assessment to determine critical systems and necessary resources.

U.S. Central respectfully suggests that the description of those two elements should be revised so that they are more consistent with accepted terminology in the Business Continuity industry. One leading source is the Business Continuity Glossary (<http://www.drj.com/glossary/drjglossaru.html>), an initiative of both the Disaster Recovery Journal Editorial Advisory Board and the DRII Certification Commission BC / DR Standards Subcommittee, which sponsors a committee of Business Continuity industry experts which solicits input of business continuity professionals on an ongoing basis. The Glossary defines “business impact analysis” and “risk assessment / analysis” as follows:

BUSINESS IMPACT ANALYSIS (BIA): A process designed to prioritize business functions by assessing the potential quantitative (financial) and qualitative (non-financial) impact that might result if an organization was to experience a business continuity event.

RISK ASSESSMENT / ANALYSIS: Process of identifying the risks to an organization, assessing the critical functions necessary for an organization to continue business operations, defining the controls in place to reduce organization exposure and evaluating the cost for such controls. Risk analysis often involves an evaluation of the probabilities of a particular event.

U.S. Central therefore suggests that the description of the first two of the five recommended elements in proposed new Appendix B to Part 749 be revised to read as follows:

- (1) A business impact analysis to determine critical systems and necessary resources;
- (2) A risk assessment to evaluate potential threats.

Closing

Again, U.S. Central appreciates the opportunity to comment on the Proposed Rules. If you have any questions regarding the foregoing, or if you require additional information, please contact François G. Henriquez, II, U.S. Central’s Senior Vice President and General Counsel, at fhenriquez@uscentral.org, or at 913-227-6035.

Respectfully,



Francis Lee
President and CEO

Mary F. Rupp, Esq.
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Page 4 of 4

cc: Kent Buckham
Bruce Bakke
Russell Moore
U.S. Central Board of Directors