

Jordan, Sheron

From: _Regulatory Comments
Sent: Monday, May 14, 2007 8:33 AM
To: Jordan, Sheron
Subject: FW: Ohio Credit Union League's Comments on Proposed Rule Parts 748 and 749
Attachments: image001.jpg

From: Carrie A. Zetty [mailto:CZetty@ohiocul.org] **On Behalf Of** John F. Kozlowski
Sent: Friday, May 11, 2007 2:02 PM
To: _Regulatory Comments
Cc: steveb@kembacu.org; Paul L. Mercer; jguy@kemba.org; mdunn@cuna.com; corr@cuna.com
Subject: Ohio Credit Union League's Comments on Proposed Rule Parts 748 and 749



OHIO CREDIT
UNION LEAGUE
May 11, 2007

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

Re: Records Preservation Program and Catastrophic Act Preparedness

Dear Ms. Rupp:

The Ohio Credit Union League (“League”), the trade association for credit unions in Ohio advocating on behalf of more than 430 credit unions and 2.7 million credit union members appreciates the opportunity to provide comments on the National Credit Union Administration’s (NCUA) proposed rule to clarify the obligation of federally-insured credit unions to maintain a records preservation program.

The League commends NCUA for its response and review of the current record preservation program not only as a result of Hurricane Katrina and Rita, but also considering and recognizing other potential “catastrophic occurrences.” As a result, NCUA has revised the meaning of a “catastrophic act” as “any event, natural or otherwise, resulting in physical destruction or damage to the credit union or an interruption in vital member services projected to last more than 2 business days.”

As part of its proposal, NCUA has also proposed several revisions to be made to Part 749 (Records Preservation Program and Record Retention Appendix), including:

- The question format currently used in the section headings would be replaced with language simply describing each section’s contents.

- Changes to the vital records definition would clarify that share, deposit, and loan balances for each member's account should be available as of the most recent business day, while the credit union's financial reports should be available as of the most recent month's end. All other vital records should be updated as changes.
- Vital member services would be defined as informational account inquiries, share withdrawals and deposits, and loan payments and disbursements.
- Credit unions would be required to maintain certain emergency contact information.
- The definition of a vital records center would remain the same, but would clarify that a credit union's back-up site may be another federally-insured credit union.
- Language would be added to address the importance of having any equipment or software necessary to access the records at the vital records center. The equipment or software should permit the examiner to access those records during the examination process.
- Federally-insured credit unions (FICU's) which have some or all of their records maintained by an off-site data processor would be considered to be in compliance with requirements for the storage of those records as long as the service agreement specifies the data processor safeguards against the simultaneous destruction of production and back-up information.
- The proposal would mandate that the federally insured credit union's vital records preservation program be in writing. The proposal recommends that a FICU complement its written program by establishing a method for restoring vital member services in the event of a catastrophic act. It is further recommended that a FICU include in its written program a method for using duplicate records to restore vital member services in the event of a catastrophic act.

Finally, NCUA has proposed catastrophic preparedness guidelines that recommend that a credit union, with oversight and approval of the federally insured credit union's board of directors, develop a program to prepare for a catastrophic act. The proposed guidelines recommend that a catastrophic preparedness program include the following five elements:

- A business impact analysis to evaluate potential threats;
- A risk assessment to determine critical systems and necessary resources;
- A written plan addressing such issues as persons with authority to enact the plan, preservation and ability to restore vital records, communication with employees and members, notification of regulators, training of employees and testing procedures;
- Internal controls for reviewing the plan at least annually and for revising the plan as circumstances warrant; and
- Annual testing.

In addressing this proposal regarding a credit union record preservation program and catastrophic act preparedness the League will address four areas: the definition of "catastrophic act," the new definition of "vital records," the definition of "vital member services" and recommendations from NCUA on preparedness.

"Catastrophic Act"

The League agrees with the proposed modification to the definition of "catastrophic act." Too often, a "catastrophic act" is viewed as a specific event or an occurrence that can cause disruption of services. By modifying and expanding the definition to include "any event...resulting in... an interruption in vital member services projected to last more than 2 business days..." the credit union would be required to

respond in an expeditious manner to assure continued operation. It would also be requested to follow its procedures to provide the necessary services to its members and preserve the appropriate records that are essential to the ongoing operations of the credit union. As with any catastrophic event, it is critical that the credit union continue to meet the financial needs of its members and maintain the integrity of its records to assure continuation of the credit union itself.

“Vital Records”

As stated above, “vital records” refer to the following records

- (a) A list of share, deposit, and loan balances for each member’s account as of the most recent business day that:
 - (1.) Shows each balance individually identified by a name or number;
 - (2.) Lists multiple loans of one account separately; and
 - (3.) Contains information sufficient to enable the credit union to locate each member, such as address and telephone number.
- (b) 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.
- (c) A list of the credit union’s accounts at financial institutions, insurance policies, and investments along with related contact information, current as of the most recent month-end.
- (d) Emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records.

The League believes that this is a sufficient definition in that it takes into account the records necessary to maintain the integrity of the credit union to continue its operations and meets the obligations not only to its members as consumers and customers but also as owners in ensuring the continuing existence of the credit union itself.

“Vital Member Services”

NCUA has defined “Vital Member Services to mean informational account inquiries, share withdrawals and deposits, and loan payments and disbursements.

In reviewing this definition based on the occurrence of a catastrophic event, the League believes that these member services are essential to meet the basic financial service needs of its members.

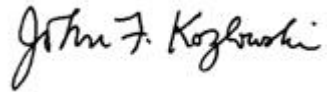
“Recommendation for NCUA on Preparedness”

NCUA has always been receptive and responsive to credit unions in providing guidance and recommendations on what is minimally expected of credit union to implement programs, policies, and procedures in meeting the requirements of regulation investigative rulings, credit union letters, etc. The League respectfully requests that NCUA continue to recognize the need to provide this information to credit unions to assist them in complying with what could be a complex and difficult endeavor.

The Ohio Credit Union League appreciates the opportunity to file comments on NCUA’s Records Preservation Program and Catastrophic Act Preparedness proposal and would be willing to provide additional information if necessary.

If you have any questions, please feel free to contact me at (800) 486-2917.

Respectfully submitted,

A handwritten signature in black ink that reads "John F. Kozlowski". The signature is written in a cursive style with a large initial 'J'.

John F. Kozlowski
General Counsel