

June 24, 2024

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

Re: Advanced Notice of Proposed Rulemaking NCUA Part 749: Records Preservation Program and Appendices – Record Retention Guidelines; Catastrophic Act Preparedness Guidelines – Docket No. NCUA 2024-0026

Dear Secretary Conyers-Ausbrooks:

The National Association of State Credit Union Supervisors (NASCUS)¹ submits the following comments in response to the NCUA Board's (Board) advanced notice of proposed rulemaking and request for comment on ways the agency can improve and update its records preservation program regulation and accompanying guidelines under NCUA Part 749.²

NASCUS appreciates the Board's interest in obtaining stakeholder input on the content of the records preservation program, which the board acknowledges has not been updated in 15 years and may be outdated compared to current industry best practices.

Need for Clarification: NCUA Part 749 and Appendix A – Vital Records

As discussed in the preamble, credit unions have expressed confusion regarding the requirements under Part 749, the items identified in Appendix A to the regulation, and other NCUA rules and regulations. Part 749 requires all federally insured credit unions to maintain a records preservation program to identify, store, and reconstruct vital records in the event a credit union's records are destroyed. Part 749 identifies 'vital records' as;

- A list of share, deposit, and loan balances for each member account as of the close of the most recent business day;
- A financial report listing all the credit union's assets and liability accounts and bank reconcilements as of the previous month-end;

¹ NASCUS is the professional association of the nation's forty-six state credit union regulatory agencies that charter and supervise over 1800 state-chartered credit unions. NASCUS membership includes state regulatory agencies, state-chartered and federally-chartered credit unions, and other important industry stakeholders. State-chartered credit unions hold over half of the \$3 trillion assets in the credit union system and are proud to represent nearly half of the 142 million members. The remaining states lack state-chartered credit unions.

² Part 749 applies to federally insured state credit unions by way of reference in Part 741.215.

- A list of the credit union’s accounts at financial institutions, insurance policies, and investments along with related contact information; and
- Emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records.

Meanwhile, Appendix A provides ‘suggested guidelines’ and advises several additional sets of records to be retained permanently. These records include but are not limited to:

- Official records of the credit union such as charter, bylaws, and amendments;
- Key operational records such as minutes of membership meetings, board meetings, credit and supervisory committees, and financial reports.³

Appendix A also states that “NCUA does not regulate in this area, but as an aid to credit unions is publishing this appendix of suggested guidelines for record retention.” What would the repercussions be if a credit union opted against permanent retention of records listed under Appendix A and not listed specifically under Part 749 as vital records requiring permanent retention? The definition of vital records and the items suggested for permanent retention within the appendices should be consistent to assist credit unions in determining what the NCUA’s expectations are for permanent retention.

Coordination with State Regulators

For additional clarification, NASCUS encourages the Board to be mindful of state laws and regulations specific to state-chartered credit unions. Many states have their own statutory record retention requirements. Should NCUA make changes to Part 749 the Board should ensure that the rules and regulations do not usurp state law. Should issues or inconsistencies be identified during the examination of a federally insured state-chartered credit union (FISCU) by the NCUA, the NCUA should work directly with the appropriate state supervisory authority.

NCUA Title II Insurance Rules

As discussed in NASCUS’ previous comments to the NCUA, the current organization of NCUA’s rules for FISCUs is unnecessarily complicated.⁴ The current organization is often confusing for credit unions and state and federal examiners. NCUA’s practice of applying rules to FISCUs by incorporating references in Part 741 unnecessarily complicates compliance because most substantive provisions applicable to FISCUs are dispersed throughout NCUA’s rules for federal credit unions. One of the rules referenced is that of Part 749, which applies to federally insured credit unions, including state-chartered federally insured credit unions. With this ANPR the NCUA Board is

³ 12 CFR Part 749, Appendix A

⁴ [See](#) NASCUS Comments on NCUA Regulatory Review 2021-2023

interested in feedback on the structure of the part which may be confusing (emphasis added).

NASCUS encourages the NCUA to reorganize its rules to consolidate and co-locate all National Credit Union Share Insurance Fund (NCUSIF) rules for FISCUs in one section. A reorganization of the rules would provide regulatory relief to credit unions while also providing necessary clarity.

Conclusion

NASCUS commends the NCUA Board for seeking stakeholder input on ways the agency can improve and update its current rules and regulations. We encourage the NCUA to continue to work with state supervisory authorities to avoid additional burdens on federally insured state-chartered credit unions.

Sincerely,

-signature redacted for electronic submission –

Sarah Stevenson
Vice President, Regulatory Affairs
NASCUS