

the Respondent requests a later date. The hearing will be held in Alexandria, Virginia, or at such other place as may be designated by the Board, before a presiding officer designated by the Board to conduct the hearing and recommend a decision.

(e) *Procedures for informal hearing.*—(1) A Respondent may appear at the hearing personally or through counsel. A Respondent will have the right to introduce relevant documents and to present oral argument at the hearing. A Respondent may introduce witness testimony only if expressly authorized by the Board or by the presiding officer. Neither the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure (12 CFR part 747) apply to an informal hearing under this section unless the Board orders otherwise.

(2) The informal hearing will be recorded, and a transcript will be furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer. The presiding officer may ask questions of any witness.

(3) The presiding officer may order that the hearing be continued for a reasonable period following completion of witness testimony or oral argument to allow additional written submissions to the hearing record.

(4) A Respondent will bear the burden of demonstrating that his or her continued employment by or service with the corporate credit union would materially strengthen the corporate credit union's ability to —

(i) Become “adequately capitalized,” to the extent that the directive was issued as a result of the corporate credit union's capital classification category or its failure to submit or implement a capital restoration plan; and

(ii) Correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of reclassification of the corporate credit union pursuant to § 704.4(d)(3) of this chapter.

(5) Within 20 calendar days following the date of closing of the hearing and

the record, the presiding officer will make a recommendation to the Board concerning the Respondent's request for reinstatement with the corporate credit union.

(f) *Time for final decision.* Not later than 60 calendar days after the date the record is closed, or the date of the response in a case where no hearing was requested, the Board will grant or deny the request for reinstatement and will notify the Respondent of its decision. If the Board denies the request for reinstatement, it will set forth in the notification the reasons for its decision. The decision of the Board will be final.

(g) *Effective date.* Unless otherwise ordered by the Board, the Respondent's dismissal will take and remain in effect pending a final decision on the request for reinstatement.

§ 747.3005 Enforcement of directives.

(a) *Judicial remedies.* Whenever a corporate credit union fails to comply with a directive imposing a discretionary supervisory action, or enforcing a mandatory supervisory action under § 704.4 of this chapter, the Board may seek enforcement of the directive in the appropriate United States District Court pursuant to 12 U.S.C. 1786(k)(1).

(b) *Administrative remedies*—(1) *Failure to comply with directive.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the Board may assess a civil money penalty against any corporate credit union that violates or otherwise fails to comply with any final directive issued under § 704.4 of this chapter, or against any institution-affiliated party of a corporate credit union (per 12 U.S.C. 1786(r)) who participates in such violation or non-compliance.

(2) *Failure to implement plan.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the Board may assess a civil money penalty against a corporate credit union which fails to implement a capital restoration plan under § 704.4(e) of this chapter, regardless whether the plan was published.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the Board may seek enforcement of the directives issued under Section 704.4 of

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this chapter through any other judicial or administrative proceeding authorized by law.

§ 747.3006 Conservatorship or liquidation of critically undercapitalized corporate credit union.

Notwithstanding any other provision of this title, the NCUA may, without any administrative due process, immediately place into conservatorship or liquidation any corporate credit union that has been categorized as critically undercapitalized.

PART 748—SECURITY PROGRAM, REPORT OF SUSPECTED CRIMES, SUSPICIOUS TRANSACTIONS, CATASTROPHIC ACTS AND BANK SECRECY ACT COMPLIANCE

Sec.

748.0 Security program.

748.1 Filing of reports.

748.2 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

APPENDIX A TO PART 748—GUIDELINES FOR SAFEGUARDING MEMBER INFORMATION

APPENDIX B TO PART 748 GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO MEMBER INFORMATION AND MEMBER NOTICE

AUTHORITY: 12 U.S.C. 1766(a), 1786(Q); 15 U.S.C. 6801 and 6805(b); 31 U.S.C. 5311 and 5318.

§ 748.0 Security program.

(a) Each federally insured credit union will develop a written security program within 90 days of the effective date of insurance.

(b) The security program will be designed to:

(1) Protect each credit union office from robberies, burglaries, larcenies, and embezzlement;

(2) Ensure the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;

(3) Respond to incidents of unauthorized access to or use of member information that could result in substantial

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harm or serious inconvenience to a member;

(4) Assist in the identification of persons who commit or attempt such actions and crimes, and

(5) Prevent destruction of vital records, as defined in 12 CFR part 749.

(c) Each Federal credit union, as part of its information security program, must properly dispose of any consumer information the Federal credit union maintains or otherwise possesses, as required under § 717.83 of this chapter.

[50 FR 53295, Dec. 31, 1985, as amended at 53 FR 4845, Feb. 18, 1988; 66 FR 8161, Jan. 30, 2001; 69 FR 69274, Nov. 29, 2004; 70 FR 22778, May 2, 2005]

§ 748.1 Filing of reports.

(a) The president or managing official of each federally-insured credit union must certify compliance with the requirements of this part in its Credit Union Profile annually. Credit unions that cannot update their profile online must certify compliance in writing in accordance with the instructions on NCUA Form 4501 or its equivalent. The credit union president or managing official must sign and date the written certification.

(b) *Catastrophic act report.* Each federally insured credit union will notify the regional director within 5 business days of any catastrophic act that occurs at its office(s). A catastrophic act is any disaster, natural or otherwise, resulting in physical destruction or damage to the credit union or causing an interruption in vital member services, as defined in § 749.1 of this chapter, projected to last more than two consecutive business days. Within a reasonable time after a catastrophic act occurs, the credit union shall ensure that a record of the incident is prepared and filed at its main office. In the preparation of such record, the credit union should include information sufficient to indicate the office where the catastrophic act occurred; when it took place; the amount of the loss, if any; whether any operational or mechanical deficiency(ies) might have contributed to the catastrophic act; and what has been done or is planned to be done to correct the deficiency(ies).