



April 24, 2015

Gerard Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

RE: RIN: 3133-AE45; Comments on Proposed Rule 791 and IRPS 15-1

Dear Mr. Poliquin,

The Credit Union Association of the Dakotas (CUAD) appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) with regard to the proposed rule 791 and Interpretive Ruling and Policy Statement (IRPS) 15-1. To provide a brief background, the Credit Union Association of the Dakotas represents sixty-nine state and federally chartered credit unions in the states of North Dakota and South Dakota, whose assets total over \$5.9 billion and who have more than 450,000 members.

Proposed IRPS 15-1 would amend IRPS 87-2 by increasing the asset threshold in the definition of “small entity” from \$50 million to \$100 million. This increase would mean that the NCUA would determine and consider the impact of proposed and final rules on a larger pool of credit unions for purposes of the Regulatory Flexibility Act (RFA). The NCUA notes that “increasing the RFA threshold to \$100 million will account for FICUs that generally face significant challenges from their relatively small asset base, membership, and economies of scale. The Board believes competitive disadvantages, rather than industry percentages, better delineate which FICUs should receive special consideration during future rulemakings.” *80 FR 11956, March 5, 2015.*

CUAD appreciates the NCUA’s approach for including more credit unions within its review process under RFA. However, CUAD believes that competitive disadvantages not only exist within the credit union industry, but greater competitive disadvantages exist between small credit unions and the entire financial industry, specifically banks. CUAD urges the NCUA to consider these competitive disadvantages as well when setting the threshold for “small entity.”

With regard to the Federal Deposit Insurance Corporation (FDIC), it bases its Regulatory Flexibility Act analysis on banking entities with total assets of \$550 million or less. “The Regulatory Flexibility Act, 5 U.S.C. 601 et seq. (RFA), requires an agency, in connection with a



notice of proposed rulemaking, to prepare an Initial Regulatory Flexibility Act analysis describing the impact of the proposed rule on small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of \$550 million or less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.” *80 FR 5067, January 30, 2015.*

In 2014, the Small Business Administration (SBA) issued an interim final rule that adjusted the monetary based industry size standards for inflation that occurred since the prior 2008 adjustment. The SBA set the small business size standards for commercial banking, savings institutions, other depository credit intermediation, credit card issuing *and* credit unions at \$550 million in assets. *79 FR 33661, June 12, 2014.*

CUAD believes that it is appropriate for the NCUA to determine and consider the impact of proposed and final rules on credit unions with assets of \$550 million or less for purposes of the Regulatory Flexibility Act (RFA). A threshold of \$550 million is not unreasonable when compared to the largest credit unions. A credit union with \$550 million in assets faces the same challenges as a \$100 million asset credit union and has more in common with a \$100 million asset credit union than it does with credit unions over \$10 billion in assets. A credit union with over \$10 billion in assets is almost twenty times larger than a credit union with \$550 million in assets. The NCUA should define small entity as a credit union with \$550 million or less in assets. This threshold would also be consistent with how the SBA sets small business size standards for credit unions.

Finally, the NCUA should not ignore the environmental competitive disadvantages that exist for credit unions operating within the same community as other financial institutions. Credit unions do not operate in a vacuum. Not only do they face competition within the credit union industry, but also competition from all the other financial institutions. Credit unions with \$550 million in assets or less should be provided the same consideration regarding the impact of proposed and final rules as other similarly sized financial institutions are provided by their regulators.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink that reads "Robbie Thompson".

Robbie Thompson  
CEO/President

A handwritten signature in black ink that reads "Amy Kleinschmit".

Amy Kleinschmit  
VP of Compliance