Capital
Credit Union

May 15, 2014

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

Dear Mr. Poliquin,

This letter is intended to outline a number of concerns Capital Credit Union (CCU) has with NCUA's proposed Risk Based Capital rule. CCU is a $365 million credit union located in Bismarck, North Dakota. Our 29,000 members enjoy a number of products and services including mortgage loans, vehicles loans, home equity loans, credit and debit cards, and member business loans.

CCU agrees with the NCUA that some form of risk based capital calculation is essential in order to assure members that credit unions will continue to have strong financial positions; however, there are several areas within the proposed rule that we strongly feel need to be addressed. These are as follows:

- Studies on the effects the proposed rule would have on credit unions' members.
- Adjusting some of the weighted average percentages used in the calculation.
- NCUA's ability to impose individual minimum capital requirements no matter what a credit union's risk based capital ratio is.
- Short timeline for the implementation of the rule.

The first area of concern is to understand the effects of this proposed rule on credit unions' members. The proposed rule has a specific impact section. Within in this section it states, "existing data available to NCUA, including Call Report data, does not contain all of the information required to analyze the impact of every aspect of the proposal. However, NCUA believes the current Call Report data available provides sufficient information for NCUA to reasonably estimate the impact of the proposed regulation." This goes on to outline the percent of credit unions that will be well capitalized under the new rule. What this section of the proposed rule lacks is any type of impact study on future lending. The proposed calculation is certain to negatively influence growth in certain segments of the institution. This means that capital that was once around for members that need it will no longer be there. In order to fully understand how this rule will affect our members, impact studies should be completed.

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The second area that needs to be addressed is within the calculation itself. From CCU's perspective there are a number of areas that cause concern. These are as follows:

- Member Business Lending Risk Weights – Under the current proposal the risk weights are not properly calibrated for different types of business loans. CCU works with many types of business loans and fully understands the different risks involved with each. The proposed rule states, "The Board believes that maintaining the current methodology avoids adding the complexity required to define the adequate level of diversification and associated reporting necessary to implement such an alternative method in the proposed rule." This in and of itself is not a good argument. Under the proposed rule, it is more advantageous for CCU to maintain a delinquent mortgage loan in its portfolio than it is to book an Ag loan to a borrower that has 50 percent equity interest and great credit.

    - A possible solution to this issue would be using different risk weights for different types of business loans. The current call report breaks out business loan by type. Each of these loan types could be given a different weight. This would not add any additional time to credit unions preparing call reports and the risk based capital calculation would be more accurate. Also, if simplicity is what the NCUA is looking for, those credit unions that currently have less than 15 percent in member business loans, the 100 percent risk rate could remain the same.

- Investment in CUSO Risk Weight – Under the proposal the risk weights for all investments in CUSOs is 250 percent. This seems extreme. The majority of CUSOs are set up to offer services to credit unions at a reduced cost. CCU is currently invested in three CUSOs outside of its wholly owned CUSO. These three CUSOs offer discounted services in plastic cards, check processing, and assist in business loan participation. Not only are these services discounted and allow CCU to offer services that could not be offered without their help, in some cases CCU even receives patronage dividends from the CUSOs. It is understood that some CUSOs may pose significant risk for credit unions; however, with proper due diligence and appropriate partners, these risks are minimized.

    - A possible solution to this would be to either lower the weighted average amount to a more reasonable level or base the weighted average on the type of business conducted with the CUSO.

- Government Guarantees Risk Weight – Under the proposal the risk weights for loans guaranteed at 75 percent or more by the SBA, U.S. Department of Agriculture, or U.S. Government agency, has a weight of 20 percent. CCU utilizes government guarantees in a number of business loans as a risk mitigation tool. Many of these guarantees are 50 percent. Under this proposal, there would be no benefit in continuing to do these types of guarantees. Also, it should be noted that with CCU's current business loan portfolio, if a $1 million loan is granted to a member, this would count against CCU's risk based calculation at $1.5 million. If that loan is guaranteed by the SBA at 75 percent, we must subtract $800,000 from the calculation. This means that a $1 million loan that the SBA is guaranteeing a loss up to 75 percent will net out to a negative impact to the risk based calculation of $700,000 ($1.5 million less $800,000); when at most, CCU could stand to lose $250,000 on the loan ($1 million less $750,000 SBA guarantee). We fail to understand the logic.

- A possible solution to this would be to carve out the government guarantees on loans. The remainder left after the guarantee could then be added to the business loan portfolio for the calculation.

- Due Diligence Requirements on Asset-Backed Securities – The proposed rule contains language that if the credit union does not "demonstrate a comprehensive understanding of the features of an asset backed investment" that the rate for these would be 1,250 percent. Due diligence is required prior to purchasing the investment and within three business days after the purchase. The new rule will force credit unions to shy away from these types of investments. This may be what the NCUA is looking for, however, in the current day environment where interest rates are so low and credit unions are looking for the best returns on investments, this will only negatively affect our members.

  - A better understanding of what a "comprehensive understanding" is and who will make that determination is needed before this should be implemented.

- Allowance for Loan and Lease Loss – The proposed rule limits the allowance for loan and lease loss to 1.25% of risk assets. By doing this, the NCUA may find that credit unions will limit their allowance to 1.25%. An allowance calculation is very subjective and limiting this calculation may be counterproductive. The proposed rule states that "an incentive for granting quality loans and recording loan losses in a timely manner" is established; however the only incentive that this rule creates is for credit unions to limit their allowance for loan loss to 1.25%. If a credit union is willing to book a loan and in turn increase the allowance by this amount, the credit union should get credit for this.

  - A possible solution to this would be to not limit the allowance for loan and lease loss to 1.25%.

- Investments – The proposed rule has risk weights between 20 and 200 percent for investments based on the weighted average life of the loan. CCU agrees that there is additional risk in longer maturity investments; however, the risk weights assigned to the respective investment pool categories from the call report seem excessive. Comparing this proposed rule to Basel for the exact same investment, with a maturity over ten years, this would be weighted at 200 percent for credit unions, yet at most 100 percent for banks. This means that for a credit union to invest $1 million, they would have to have two times as much equity as a bank would for the exact same investment.

  - A possible solution to this issue would be to establish the same limits for credit unions as banks have under Basel.

The third area that needs to be addressed is the authority given to the NCUA and their examiners to impose individual minimum capital requirements (IMCR) for a credit union regardless of their capital ratio. Giving the NCUA and examiners the latitude to impose these requirements based on "conditions or circumstances" is much too vague and may cause a number of issues with credit unions that are well capitalized.

CCU understands that there are situations where a credit union may show that they are well capitalized yet showing some deterioration, the NCUA and examiners have the ability to reflect their concerns through the camel ratings. There is no need to extend this authority.

The last area of this proposal that needs to be addressed is the timeline for implementation. This is very aggressive and does not give credit unions the ability to alter strategic plans and potentially makes changes to their operations. Although CCU does not need to raise additional capital, our cushion shrinks dramatically by $6.7 million with an impact of -190 basis point change. Of significant concern is the long term impact on growth opportunities and our overall ability to continue serving our members and communities.

In closing, although CCU welcomes a change in the risk based capital calculation to ensure credit unions remain sound financial institutions into the future, we believe the current proposal will have significant adverse impact. We are hopeful NCUA will respond positively to the concerns voiced by CCU and many other credit unions and implement a proposal that will be beneficial for credit unions, their members and NCUA. Thank you for your consideration of our concerns, CCU would be willing to discuss any of these issues with further at your convenience.

Sincerely,

Debra M. Gallagher

Debra M. Gallagher
President/CEO