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May 28, 2014

VIA E-MAIL: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

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

Re: Northeast Arkansas Federal Credit Union Comments on Proposed Rule:  
PCA – Risk-Based Capital

Dear Mr. Poliquin:

Northeast Arkansas Federal Credit Union [“NEAFCU”] appreciates the opportunity to comment on this very important issue.

NEAFCU understands that the primary mission of the National Credit Union Administration [“NCUA”] is to ensure the safety of soundness of federally insured credit unions. In that effort, NCUA must ensure that credit unions maintain capital ratios and asset levels that provide for a stable insurance fund and healthy financial structure for the system. Although NEAFCU supports a strong credit union system, we must oppose the proposal as drafted because it is flawed in several regards, as detailed below.

*Congressional Letter to NCUA*

NEAFCU strongly supports the comment letter submitted by Representatives King and Meeks, and signed by more than 320 members of the U.S. House of Representatives. NEAFCU agrees with the concerns raised in that letter including concern regarding potential adverse effects on credit unions and credit union members. Specifically, the letter encourages NCUA to:

1. Take into account the cost and burden of implementing new risk-based capital requirements beyond current ratios;
2. Provide justification and more clarity as to why the risk weights differ from those applied to other community financial institutions; and,
3. Give credit union more time to come into compliance.

[www.neafcu.org](http://www.neafcu.org)

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NEAFCU urges NCUA to give serious consideration to the issues raised by our members of Congress.

*Statement of Congressional Intent and NCUA's Authority*

In a comment letter to NCUA, former Senator Alfonse D'Amato clarified congressional intent behind the prompt corrective action ["PCA"] legislation. Specifically, he stated that applying a risk-based capital standard to determine whether a credit union is well capitalized is inconsistent with congressional intent with the PCA statutory language was crafted. Such an action by NCUA would exceed the authority conveyed to it under the Federal Credit Union Act. Senator D'Amato explained that the statute implemented a higher pure net worth requirement for credit unions and instructed NCUA to construct only a risk-based net worth floor, rather than the dual risk-based capital system in place for banks.

NEAFCU feels that NCUA has exceeded its authority by imposing a risk-based capital requirement for well capitalized credit unions higher than the requirement for adequately capitalized credit unions.

*Lack of Justification for the Proposed Risk Weights (Sec. 702.104)*

NEAFCU opposes the risk weighting categories as proposed. Due to the lack of justification by NCUA in the proposal commentary, the risk weights appear to be unsupported and arbitrary. Many of the risk weights are inappropriate and do not accurately reflect actual risk. The weightings do not account for the individual management strength of credit unions and areas in which credit unions and/or investments have a history of proven success. The risk weights ignore the historical market experience of the industry. The revaluation of certain asset weighting under the proposal could change a credit union's PCA without any reasoned justification.

For some risk categories, the weighting is the same for all loans or investments in that area. The risk weight categories are over generalized. For example, category 4 includes both unsecured and secured loans. Secured loans carry less risk and should be assigned a lower risk weight than unsecured loans.

Several of the risk weightings are alarmingly excessive, especially the proposed weighting of 250% for CUSO investments. In the proposal, all CUSO investments are treated the same regardless of the type of CUSO or its record of performance. While CUSO investments do have a degree of risk, we believe this weighting to be higher than what is warranted. The proposal also fails to consider the nature and past performance of a CUSO, which greatly impacts its level of risk. The proposal penalizes growth in investment value. NEAFCU will look to severely curtail our participation if such risk levels are applied. This will reduce opportunities for credit union growth and may reduce member service offerings. Without our current ARCUSO, we would be experiencing negative loan growth.

The proposed risk weights for long-term investments do not take into account applicable credit or asset liability management considerations; it only captures interest rate risk

concerns. A risk weighting focused solely on the average life of an investment does not accomplish the goal of addressing risk in its entirety.

The proposed risk weights also imply that an “apples-to-apples” comparison is possible between different kinds of investments. It is inaccurate to assume that every investment in a CUSO and mortgage servicing asset would be equivalent, and to assign identical risk weightings to each would in no way be an accurate representation of the actual risk involved.

In many areas, the risk weighting is even more punitive than that for community banks under Basel III. We would ask that this risk-weighting be re-evaluated to more accurately reflect the risk to credit unions.

#### *Consistency with Banks*

NCUA states that it intends to make the credit union risk-based capital measure more consistent with the measures used by the banks. If Congress intended credit unions to be subject to the same requirements as the banks, it would have said so. Basel III, the system used for banks, is focused on credit risk. However, the NCUA RBC proposal covers not only credit risk, but also interest-rate risk, concentration risk, liquidity risk, operational risk, and market risk. Furthermore, NCUA’s proposal weighs the following areas significantly higher than Basel III: government guaranteed residential mortgages, non-delinquent first mortgage loans, other real estate loans, and MBLs. NCUA has not justified why its RBC proposal is significantly broader and more burdensome than Basel III.

NCUA says it intends the RBC proposal to bring consistency between the bank PCA and credit union PCA, but that approach fails to take into consideration the unique aspects of credit unions, including restraints on how credit unions can raise capital. Unlike the activity of banks which led to the recent economic crisis, credit unions have proven responsible business practices and success over time. As a result, credit unions should be afforded regulatory relief and treatment commensurate with our responsible practices.

#### *Subjective Determination of Higher Capital Amounts (Sec. 702.105)*

Under the proposal, NCUA has the authority on a case-by-case basis to increase the amount of capital a credit union is required to maintain. In other words, even if a credit union is in compliance with the rules, NCUA could require more capital. Despite the proposed “process” we feel that the NCUA board would retain the ability to delegate such power down the chain, perhaps to the examiner level. NEAFCU opposes this provision of the proposal because such power is overly broad and not justified. It is unreasonable to think that a credit union that plays by the rules and is in compliance could be subject to the will of an examiner.

We prefer an objective risk based assessment, so that all credit unions can operate without fear of prompt corrective action.

*Definition of "Complex" Credit Union (Sec. 702.103)*

The proposal would define a "complex" credit union as ANY credit union with over \$50 million in assets. To be considered a complex credit union under the current rule, a credit union needs to be over \$50 mill AND have a risk based net worth over 6%.

NCUA has provided no justification for expanding the definition of complex credit union. Size alone does not make a credit union complex. When determining if a credit union is complex, NCUA should also consider a credit union's comprehensive book of assets as well as its operations. NEAFCU is by no means a complex credit union simply due to our asset size of \$104.4 million.

*Regulatory Burden*

The proposal increases our regulatory burdens due to increased costs associated with updating policies, data collection, and updating reporting systems. This is in addition to the countless other regulatory burdens currently hampering us from serving our members. We spend an inordinate amount of time complying with regulations and preparing for exams.

In other words, NCUA estimates the rule will create an additional 162 hours annually for credit unions. In an effort to minimize our operating expense, we work to serve our membership with the smallest staff possible. That's over four weeks of work for a full-time employee, provided that NCUA has not underestimated the work involved. Meanwhile, the members suffer as the credit union is not able to properly serve them. These burdens are above and beyond the countless other regulatory burdens with which credit unions are struggling today.

Recently we purchased a software module to assist with the call report. The call report will be more costly and more complicated due to the amount of new information to be provided. This software will now be outdated.

*Summary*

In summary, we urge NCUA to remember that its job is to regulate credit unions so that they may thrive and grow; the NCUA should not be managing the credit union balance sheet. We support a risk-based evaluation, just not the particulars of this proposal. We hope that NCUA will give great thought and consideration to the flood of comments on this very important issue and revise the rule as requested.

Thank you for the opportunity to comment on this very important issue. Please feel free to contact me at 870-935-9336 with any questions you may have.

Sincerely,

NORTHEAST ARKANSAS FEDERAL CREDIT UNION



Sherry Gray  
President/CEO