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678.889.4328
1505 Lakes Parkway | Suite 100 | Lawrenceville, GA 30043

April 25, 2014

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

RE: RIN-3133-AD77
Prompt Corrective Action – Risk Based Capital

Dear Secretary Poliquin,

The purpose of this letter is to respectfully respond to the proposed rule for Prompt Correct Action for Risk Based Capital that was published February 27, 2014 (79 Fed Reg 11184).

As a credit union professional who has worked in the credit union industry for almost thirty years, I do not believe that the proposed new rules are in the best interest of the credit union, its membership or the credit union industry as a whole. The following issues selected, which are not all encompassing, have not been properly addressed in this proposal and merit serious consideration before a final rule is imposed on any credit union, regardless of their asset size.

The current definition of a "complex" credit union which simplistically identifies all federally insured credit unions over $50 million in assets as complex is questionable, especially without any required tests or methodology. Based on current law, The Federal Credit Union Act (FCUA) specifically states a definition of *"net worth"* and the levels of net worth a credit union must maintain to be considered "well capitalized", "adequately capitalized", etc. Additionally, the FCUA suggests an additional level of reserve requirements *"if"* a credit union is *"complex"*. The additional level of reserves is called *"risk-based net worth"(RBNW)*.

Under the current law, *"if"* a credit union has a RBNW ratio of greater than 6% *"and"* the credit union's RBNW ratio is also greater than its net worth ratio, *"then"* additional reserves may be required. So, if a credit union is not *"complex"*, then risk-based standards do not apply under current law. Effectively the credit union system already has a "risk-based" system for determining "riskier credit unions" and has had that system since 2000.

Although we support appropriate risk-based capital ratio measures, we do not support measures for credit unions that exceed BASEL III standards for banks less than $15B in assets. There are many inconsistencies regarding risk-weighting found throughout the proposal that NCUA should reconsider.

Another issue of great concern is the risk-weighting after a credit union reaches 15% to 25% of assets in member business loans; the risk weighting assigned is 150%. This risk assignment is significantly higher than what banks are required under BASEL III and it doesn't stop there. The risk weighting doubles

(200%) when a credit union exceeds 25% of its assets. Why? This arbitrary and punitive risk rating will unfairly penalize the credit union and reduce our competitiveness in the market place. We recommend that NCUA impose the same risk ratings BASEL III applies to commercial loans which is 100%. Investment CUSOs are risk-weighted at 250% even though NCUA's own rules are clear that the maximum liability a credit union can incur in a CUSO is only the amount of its investment, i.e. 100%. This makes no sense.

In addition, the proposal does not properly address lower risk funds in an overnight account which is evident by assigning a risk weighting of 20% to do business with the Federal Reserve.

Mortgage lending continues to be a key component of the credit union's loan portfolio and outside of the mortgage meltdown, mortgage loans have been historically low risk. The proposal has again assigned risk weighting numbers that are much greater than those assigned in the BASEL standards. For example, residential mortgage loans guaranteed by the FHA or VA have a 20% risk weighting in the proposal whereas BASEL standards assign a 0% risk weighting. For non-delinquent first mortgage loans greater than 25% of total assets (depending on the concentration level) the proposal assigns a risk weighting as high as 100% which is twice that of the BASEL standard.

With regards to the 1% NCUSIF Share Insurance Capitalization Deposit found in Section§702.104(b), we disagree with the subtraction from our net worth calculation because excluding this deposit from the calculation does have a material impact on the risk based capital ratio. If the rationale for deducting our deposit is that credit unions should not expect the money back at any point since it's not available to cover any of our risks or losses, then we disagree with this premise. The NCUSIF deposit belongs to each credit union, not NCUA, and it's earmarked to cover credit union losses in case of insolvency. NCUA should consider adding the deposit back to the risk based capital calculation because the intent of the proposal should be to measure a credit union's real capital position.

Section §702.105(c) of the proposed rule is troubling. According to this section "appropriate minimum capital levels for an individual credit union cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria, and that a decision is necessarily based, in part, on a *subjective judgment* grounded in NCUA's expertise". This rule would effectively give NCUA examiners the ability and authority to substitute their judgment for the responsibility of the board and management to set and maintain appropriate policies for the credit union. Granting this type of authority over a credit union without due process is unacceptable. Please consider deleting this section.

In summary, the proposal as written is clearly detrimental to the survival of the credit union industry. Without significant changes to the proposal, it will without a doubt, stifle credit union growth, significantly increase the cost of financial services to all individual credit union members and impose punitive and arbitrary capital taxes on credit unions with assets greater than $50M that will ultimately have dire consequences.

Thank you for your time.

Demitra M. Houlis

Demitra M. Houlis
SVP, Enterprise Risk Management & Strategic Initiatives
Peach State Federal Credit Union