Denver Community CREDIT UNION Reach Further.

May 8, 2014

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

Re: RIN 3133-AD77

Mr. Poliquin and Members of the Board:

Denver Community Credit Union appreciates the opportunity to comment on the NCUA's proposal to reform the Agency's current Prompt Corrective Action Rule. Our credit union is a state-chartered, community credit union representing more than 25,000 members in the counties of Denver, Adams, and Arapahoe, Colorado with assets of more than $260 million.

On behalf of Denver Community's board of directors and management, we are in general support of the Agency's efforts to reform its current capital and net worth rules and agree that a risk-based approach is timely. However, we feel that the proposed rule is inadequate and will ultimately prove detrimental to the credit union's members. We offer the following and urge the Agency to significantly modify several aspects of the proposed rule and delay its effective date until the impact on the industry can be fully understood.

The proposed rule does meet the statutory requirement for "comparability."

The Agency has been instructed to prescribe a system for prompt corrective action that is comparable to the system prescribed for other depository institutions under 12 U.S.C. §1831o. However, the risk weightings assigned for various asset categories are not properly supported and are effectively punitive if left as proposed. Since the Agency seeks to incorporate risks other than "credit risk", the proposal, by definition, does not meet the Agency's statutory requirement to provide comparability. The result is a proposed rule in which credit unions are at a disadvantage when compared to institutions regulated by the FDIC or when compared to the Basel III standards.

The proposed rule does not allow for loans sold with "limited" recourse.

The "Loans Sold with Recourse" asset category for Denver Community is entirely comprised of first lien mortgages sold into the Mortgage Partnership Finance ("MPF") program of the Federal Home Loan Bank of Topeka ("FHLB"). The MPF program is an outlet for our credit union to sell a funded first mortgage loan and retain its associated servicing asset. The program provides tremendous benefits and differs from typical secondary market Agency (Fannie Mae/Freddie Mac) loan sale relationships.

Denver Community sells first-lien mortgage loans "without recourse." With the MPF program, there is potential for DCCU to be liable for a portion of a loss associated with a sold loan post sale. Each loan sold is individually assigned a risk obligation and is tracked in aggregate. Because these sales do not meet the requirements, under GAAP, for "loans sold with recourse" we are not required to reserve any loss account. The proposed rule weights this category such that the allocation of capital required greatly exceeds the maximum potential legal liability to the credit union. For example, in a catastrophic scenario where 100% of these loans sold were to default and be liquidated, the total maximum loss to the credit union is limited at $13 million. The proposed rule over-weights these assets by an additional $5 million. The result is a gross overestimation of the off balance sheet risk assumed by the institution. It's unclear why the Agency would choose to use an estimate of risk when the actual amount is available.

The credit union's NCUSIF Capitalization Deposit is deducted from the calculation.

These funds are an asset of the credit union (and its members) and would be reclaimed by the institution in the event of a voluntary liquidation or conversion away from a credit union charter. This asset is a reserve that serves to protect the NCUSIF from potential losses and is not subject to claims of creditors. It serves no other purpose but to protect the fund in the same fashion as the institution's net worth and should be treated as such by including it the calculation.

Risk Weights for Certain Asset Categories Lack Sufficient Rational Basis

For example, the total value of the credit union's loans to a CUSO receives a risk-weighting of 100%, while investments are weighted at 250%. These weights do not take into account the financial strength of the CUSO and thus seem arbitrarily assigned.

Similarly, Mortgage Servicing Rights require a risk-weighting of 250% while delinquent loans are weighted at 100%. The proposal lacks sufficient explanation as to why an asset with a specific methodology for value determination and marketability is weighted 2.5 times more than an asset whose performance is suspect.

The Proposal Invites Abuse by Field Examiners

At the discretion of the Agency, and without any defined "objective standards", field examiners can assign a 1,250% risk weight to asset-backed investments. This can be assigned if the credit union lacks a "comprehensive understanding" of the asset in question. However, the proposed rule does not define the meaning of "comprehensive understanding." Given the amount of reliance the Agency is placing on its field examiners to act as the final authority on such a critical role, the rule should include either a definition of the term or prescribe a reliable process of due diligence.

Goodwill is deducted from the calculation.

It's unclear why the Agency would require the industry to adhere to GAAP for the purposes of business combinations (i.e. the recognition of goodwill following mergers), just to abandon those industry standards when evaluating the fair market value of the balance sheet. In a liquidation scenario, would the Agency benefit from the value of assets above book value?

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Risk-Weights for Assets Explicitly Guaranteed by the Full Faith and Credit of the US Government should be Zero.

In the same manner that banks are not required to retain capital for risk-free instruments, neither should credit unions. This would apply to funds on deposit with the Federal Reserve, US Treasuries, Small Business Administration Pool investments, Ginnie-Mae bonds, and deposits insured by the FDIC.

Conclusion

Despite the Agency's effort to devise a metric for protecting the insurance fund against even the potential for future losses, there remain several deficiencies in the proposal that must be rectified prior to its being made final. Without conducting its proper due diligence on the full effect on the industry as a whole, the Agency runs the risk of creating a dramatic and significant disadvantage among regulated financial institutions. We feel that these disadvantages are not necessary and are not supported by the Agency's statutory mandate.

Additionally, the effect of the proposed rule leaves credit unions with two limited options; first, discontinue offering products and services that are discouraged by the Agency (i.e. real estate lending, CUSO investment, etc.) or second, increase the costs to the credit union member beyond a competitive level. Neither choice is beneficial to the member and effectively works to inhibit progress in an already difficult environment.

Regards,

Carla Hedrick

Carla Hedrick
President & CEO