May 08, 2014

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

RE: Comments on Proposed Rule: PCA - Risk-Based Capital; RIN 3133-AD77

Dear Gerald Poliquin,

I am writing on behalf of the Board of Directors of Safe 1 Credit Union as well as the 47,000 members we serve. We are a federally insured California state chartered credit union with $370 million in assets. Although our credit union is well capitalized, and would remain so under the proposed rules, we have significant concerns regarding the rules as proposed.

The regulation should be simplified - The length and complexity of the proposed rule is onerous. I have worked in the industry for over forty years and have seen the regulatory and compliance burden on credit unions increase exponentially during my tenure. It seems that every government body claims to recognize this problem of over-regulation, but none actually take any meaningful action to reduce the burden on the regulated. I think it would be a shock to the NCUA Board members if they knew how many hours it has taken our staff to review this complex regulation, just so we may make reasonable comments. If the NCUA Board concurs that the compliance burden is a problem, then do we really need the risk-based rule that requires 44 pages in the Federal Register?

The risk weightings should be significantly reduced - The background information for the rule concedes that, in general, credit unions have high quality capital, with retained earnings being the predominant form of capital. Further, that the NCUA Board is required to take into account that credit unions do not issue capital stock and must rely on retained earnings to build net worth. However, if you compare the risk weightings to those found in bank regulations (BASEL III), those contained in the proposed rules for credit unions are higher than for banks. Obviously, banks have distinct advantages in raising capital. This should be a primary consideration of the Board in establishing risk weightings. In no case should <u>any</u> risk rating be greater than is currently required of banks.

CUSO risk weightings should be eliminated or modified - The CUSO risk metrics assume every CUSO is a high-risk venture and does not take into account the business purpose of the CUSO. Obviously, a CUSO formed to provide investment services to members carries different risk levels than one formed to provide IT services to credit unions. Our credit union has invested in a single CUSO that provides networking for our ATMs, ACH activity, and card processing. Our investment has been returned over ten-fold in the form of dividends and it has literally saved us millions of dollars in fees. If the proposed rules were in place at the time we invested, we likely would have chosen not to invest due to the CUSO risk weighting in the proposal. The risk weighting for CUSOs should be based on the type of CUSO, never exceed a 100% risk weighting, and should not be so punitive that it discourages collaboration between credit unions.

Remove ability of NCUA to impose individual minimum capital requirements - The proposed rule includes procedures for NCUA to require an individual credit union to hold a higher level of risk-based capital where specific supervisory concerns arise regarding the credit union's condition. The justification in the summary of the proposed rule is that this would allow the NCUA flexibility to correct known limitations of any currently widely applied risk-based measurement system. This is problematic and would not solve the limitations of any other system. It would instead allow arbitrary and subjective judgments that could inhibit the ability of an otherwise healthy credit union to operate effectively. From experience, I can confirm that it is not uncommon for examiners to limit the ability of a non-PCA credit union's activities using a Document of Resolution. The proposed rules will result in specific limits on high-risk activities, so it is unnecessary to provide "carte blanche" to examiners to set arbitrary capital levels based on subjective individual biases. Ironically, if this provision remains in the final rules, there is no need for the rules, since the judgment of an examiner may be allowed to supersede any of the required capital levels or risk weightings contained in the proposal.

RBC ratios should include the NCUSIF deposit – The NCUSIF deposit has always been correctly identified as an asset of the credit union. This deposit should be included in the numerator of the RBC calculation, recognizing it as an asset of the credit union.

Eliminate the ALLL limit of 1.25% of risk assets - The ALLL is one of the most scrutinized balance sheet items during an examination. Our credit union has had to make adjustments to our ALLL methodology numerous times to comply with examiner's requests. During each regulatory examination, any over or under funding of the ALLL is addressed on an individual level based on the specific risks and lending practices at each credit union. Secondly, the ALLL is a moving target, regularly adjusted due to action by the Financial Accounting Standards Board (FASB). For these reasons, we believe the ALLL limit should be eliminated in risk calculations.

Extend the compliance date – These rules amount to a monumental change to the capital requirements for credit unions. Many credit unions will have to make key changes to their operations to reduce balance sheet risks. Credit unions should be provided a minimum of 36 months after adoption to comply with the new rules.

Final Comment – I know the NCUA Board will adopt new risk-based capital rules, regardless of the comments received from credit unions. However, the fact is that these rules are not necessary. As justification for the proposed rule, the published statements note that the NCUSIF did experience several hundred millions of dollars in losses due to failures of individual credit unions holding inadequate levels of capital relative to the levels of risk associated with their assets and operations. Further, that examiners warned officials at these credit unions that they needed to hold higher levels of capital to offset the risks in their portfolios, but the credit union officials ignored the examiners' recommendations, which were unenforceable. Based on my experience with examiners, this is laughable. Under safety and soundness provisions, the examiners routinely issue Documents of Resolution (DORs) which require non-PCA credit unions to cease activities deemed high-risk. I have experienced and seen many DORs issued to financially strong credit unions based on the "safety and soundness" and "sound business practices" doctrine used as a "catch-all" for examiners to eliminate or reduce risk. In fact, I think it would be accurate to say that I have seen more DORs issued under these doctrines than those issued due to non-compliance with regulations. The losses experienced by the NCUSIF were not caused by lack of enforcement powers, but by bad risk management by a few credit unions. This is not to blame examiners for the failures, but the focus of examinations has changed from looking at overall soundness of the institution to dealing with the minutiae. Examiners could not have predicted the severity of the mortgage meltdown, but NCUSIF losses were not because examiners or the NCUA Board saw it coming and had no power to enforce better risk management.

In conclusion, Safe 1 Credit Union does not believe NCUA has provided adequate justification for this rule, and therefore, should remove the proposal for further study. However, if the NCUA decides to move forward and adopt these rules, we would hope that the rules would be modified and that our comments would be considered.

On behalf of the Board of Directors of Safe 1 Credit Union, I want to thank you for the opportunity to comment and your consideration of our views. If you have any questions regarding these comments, please contact me.

Sincerely,

Doug Kileen
CEO
Safe 1 CU

cc: CCUL