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To:	_Regulatory Comments
Cc:	"Suzanne Yashewski"; Jim Minge - TEXAS TRUST
Subject:	Comments on Proposed Rule: PCA; Risk-Based Capital
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TEXAS TRUST CREDIT UNION

May 12, 2014

Via Email to regcomments@ncua.gov

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

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

I am writing on behalf of Texas Trust Credit union, which serves Dallas, Tarrant, Henderson and a majority of Ellis and Johnson Counties. We have 70,735 members and $847 million in assets. Texas Trust Credit Union appreciates the opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposed rule, Prompt Corrective Action – Risk-Based Capital.

While I am generally supportive of the concept of risk-based capital for credit unions, I feel there are flaws in the proposed rule. First, I do not support measures for credit unions that exceed Basel III standards for banks less than $15 billion in assets. Second, I do not agree that NCSUIF and goodwill should be excluded from the calculation of RBC ratios. The following comments are offered with the intent to improve the proposed rule.

REMOVE EXAMINER DISCRETION PROVISION.

This rule creates a dual system with statutory net worth requirements under PCA as being 7% of total assets to be well capitalized and 10.5% of risk weighted assets to be well capitalized. This creates a question of which is the more important of the two ratios and which should have the strategic priority in credit union risk management decisions – building net worth ratios through the earnings that come with managed risk of certain higher risk assets or building capital ratios through divestiture of certain higher risk assets that might be performing well but adversely impact the risk-based capital ratios.

Under this proposal, an examiner can increase (not decrease, only increase) a credit union's individual risk-based capital requirement by subjective action during an examination based upon his or her determination of the need for additional capital versus the balance sheet risk.

The lack of management clarity this provision imposes into the system is a serious flaw that frankly undermines the effectiveness of the entire regulation. Some might argue that, if the examiner can set his or her own risk-based capital ratio requirement for each credit union, there is no real reason for the regulation establishing a formula of risk weights to which a credit union should manage. Why not just provide examiners with the authority to set the capital standard on a case by case basis? Why have a risk weighting formula?? Why have a calculator on the NCUA website???

This provision needs to be removed or the regulation will end up being merely an unbridled extension of examiner subjective authority, leaving the risk-based weighting process outlined in the regulation as a mere guide from which examiners can start in requiring additional capital and, if not complied with, imposing corrective actions on the credit union without reasonable appeal options.

SUPPLEMENTAL CAPITAL SHOULD BE INCLUDED.

A supplemental capital regulation is needed. In fact, it seems impossible to avoid it now that over 2,000 credit unions are eligible for supplemental capital – regardless of whether it is included as an option under this new risk-based capital regime.

Some credit unions, probably more than just a handful, out of the 2,000+ low-income designated credit unions are going to proceed to offer supplemental capital instruments as per the authority the law and current regulation provides them.

This proposed risk-based capital rule notwithstanding, NCUA needs to get ahead of this by defining acceptable parameters, consistent with GAAP, for supplemental capital.

CREDIT UNIONS CHARTERED HISTORICALLY FOR BUSINESS LOAN PURPOSES SHOULD BE EXEMPT FROM PUNITIVE RISK WEIGHTS FOR CONCENTRATIONS IN BUSINESS LOANS.

Credit unions chartered historically for the purpose of making business loans are being penalized tremendously by the risk weighting of business loan portfolios at 1.0 if less than 15% of total assets, 1.50 if between 15% to 25% of total assets and 2.0 if over 25% of total assets. Their concentration risk is historical and well managed – or they would still not be in business. Congress has recognized their special category for its public purpose – agriculture, churches, taxi drivers, etc. This proposal leaves most of these credit unions below the 10.50% risk-based capital threshold (even though they are almost all well over the 7% net worth standard of current law, some even with four and five hundred basis points of cushion) because of their concentration in business loans – the only substantive loans many of them make.

Credit unions historically chartered for the purpose of making business loans, a category already recognized by law in the NCUA data base from which the risk weighted numbers are drawn, should be exempted from the concentration based increased weights and its entire business loan portfolio weighted at 1.0.

CREDIT SHOULD BE PROVIDED TO CREDIT UNIONS WITH PROVEN MINIMAL LOSSES IN BUSINESS LENDING PORTFOLIO.

Credit unions that offer business loans find their portfolios weighted under this proposal at 1.0 / 1.50 / 2.0 for each dollar of loan value depending upon whether their concentration is at less than 15% of assets (1.0), between 15% and 25% of assets (1.50) or over 25% of assets (2.0).

That's it. That's the weight – regardless of whether there are 500 basis points of charge offs in the business loan portfolio or 35 basis points.

There is no compensating factor in the risk weighting for business loans based upon the performance of the credit union in managing this area of credit, liquidity and interest rate risk. That is a worse example of one-size-fits-all than the current system this proposal purports to

This proposal would be greatly strengthened by providing a credit of 50 basis points in every category of business loan concentration if the credit union has had less than 1.5% charge offs in its business loan portfolio over the past three years. If the charge offs average has been 1.5% or less over a three-year period, the weights on business loans should be .50 / 1.0 / 1.5 for the same concentration categories as outlined in the proposal. If the charge offs average of 1.5% over the past three years, the proposed weights should remain – other than for the aforementioned credit unions historically chartered for the purpose of making business loans that should have their entire portfolio at 1.0%.

This risk-based capital proposal would be much better balanced and viewed as more of an incentive to effective risk management if the risk weights could be established with a rolling three year average to reward those credit unions effectively managing their business loan risk – just as it penalizes those that have not been as effective in doing so.

It could be argued that a similar approach could be applied in the mortgage lending area. While that would be worth looking at, the risk weights in the mortgage area are not as punitive as those in the business lending portfolio. There must be some balance put into the risk weights for business loans. Some type of earned credit based upon managed risk performance seems the right way to do so.

EARNED BLANKET WAIVER AUTHORITY FOR CREDIT UNIONS WITH BOTH RATIOS IN THE WELL CAPITALIZED CATEGORY.

Another area that should be considered would be – for those credit unions with over 7% net worth under the old rules and over 10.5% risk-based capital under the new rules - to provide, upon application by the credit union, blanket waiver authority for fixed assets beyond the 5% regulatory limit and for waiving personal guarantees on some business loans. This would be a tremendous incentive for credit unions to keep both ratios and both standards in the green zone. After all, if a credit union board and management team can perform in excess of the required standards for both net worth and risk-based capital, they should be able to be trusted to make their own decisions about fixed assets and underwriting business loans.

As was the case under RegFlex a few years ago, an examiner would have the right to suspend the blanket waiver authority based upon safety and soundness considerations; however, the default position for credit unions exceeding both the statutory net worth ratio of 7% of total assets and regulatory capital at 10.5% of risk-based assets should be that they should be streamlined for blanket waiver authority in these two key areas.

CAPITAL RESTORATION PLAN SHOULD BE THE SOLE DEFAULT REQUIREMENT FOR A CREDIT UNION BELOW 10.5% RISK-BASED CAPITAL BUT OVER 7% NET WORTH OF TOTAL ASSETS.

If a credit union has over 7% net worth as a percentage of total assets, its failure to exceed the 10.5% threshold of risk-based capital should not trigger draconian corrective actions by the NCUA such as removal of officials or divestiture of assets.

The default requirement for a credit union with over 7% net worth but less than 10.5% risk-based capital should be submission of a capital restoration plan that would seek to bring the risk-based capital ratio into compliance with the 10.% requirement within a reasonable period of time. For some credit unions, that might be one year. For others, three years. Some maybe as much as five.

CUSO INVESTMENTS SHOULD BE WEIGHTED AT 1.0 AND MANAGED THROUGH THE SUPERVISORY PROCESS OF CREDIT UNIONS, NOT AN ARBITRARY WEIGHT OF 2.5 THAT COULD STIFLE RISK SHARING AND COLLABORATION.

NCUA enacted a new CUSO rule in 2013 that sought to gather additional data on credit union CUSO investments because the agency did not feel comfortable it had a good handle on the amount of risk CUSOs bring to the credit union system. Interestingly, even though the agency admitted only months ago the lack of available empirical data on potential CUSO risk, the risk weight applied to CUSO investments in this proposed rule is the absolute highest risk weighting applied to any asset. CUSO investments are weighted, quite arbitrarily it would seem from the admitted lack of agency data, at $2.50 for every dollar of investment.

Even though there were a couple of high profile credit union losses partially driven by bad CUSO investments (Texans and Telesis), the reality remains that the overwhelming majority of CUSOs are performing very well, generating considerable savings through economies of scale and providing much needed non-interest income to their credit union owners. Demonstrating the credit union cooperative spirit at its finest, they foster much-needed innovation in the marketplace through shared risk and collaboration. CUSOs have been one of the credit union industry's greatest success stories of the past ten to twenty years – see CO-OP, PSCU, CUDL, CU Revest, NB Risk Partners and too many other great CUSO examples to name.

Unless the risk weighting is made more appropriate to reflect the actual historical performance and lack of risk in CUSO investments (less than 22 basis points of credit union assets are invested in CUSOs, hardly a systemic risk), this risk-based capital proposal has the very real potential to bring a real chilling effect on CUSO investment and – through that lack of investment – a restriction on what has become major credit union earnings driver and collaborative savings source.

To be sure, credit union examiners can already gain the data they need from the credit unions that own CUSOs. From this data and working through the credit unions they supervise, the regulators can ensure CUSO return on investment is appropriate to the risk through the examination and supervisory process. A punitive risk weighting that is not commensurate to the risk is simply not appropriate and could have serious unintended consequences of driving many credit unions to sources outside the system where there is even less supervisory control through the credit union owners. The risk weight of CUSO investments should be set at 1.0 – dollar for dollar. Exceptions that are likely to cause potential credit union risk should be managed, not through an unjustifiable arbitrary risk weighting, but instead through the credit union examination and supervision process on a case-by-case basis.

MORTGAGE LOAN SERVICING MAY JUSTIFY SOME INCREASED WEIGHT BUT 2.5 IS EXCESSIVE.

Again, NCUA last year finalized a rule on loan participations that was intended to help credit unions (and, through the provisions of the new rule when complied with by credit unions, NCUA itself) better manage the potential concentration risk in loan participations.

Rather than give its own rule a chance to work and bring less concentration risk, the risk weighting within this proposed rule at 2.50 is again seemingly artificially high. The read of many experts, as is the case with the CUSO investment weighting, is that the high risk weighting is designed to send a regulatory preference by NCUA that there be less loan participations and less CUSO development.

From a risk sharing and collaborative viewpoint, this seems short-sighted. A more appropriate approach, if indeed it is conceded that there is some additional risk in servicing mortgages that have been sold or participated out, would be to set the risk weights in this area be closer to 1.5 than 2.5. And the recourse factor should be brought into the picture in determining the weight, perhaps allowing an even lower weighting (1.0 for example) if the loans are sold without recourse but serviced.

EFFECTIVE DATE OF FINAL RULE IMPLEMENTATION SHOULD BE END OF YEAR 2018.

As it will likely take the entirety of 2014 and perhaps into early 2015 before a final risk-based capital rule can be approved by the NCUA Board there should be three-year period allowed for credit unions to get ready for its implementation. Nothing impacts the central nervous system of a credit union more than the net worth and capital requirements necessary to be both a safe and sound institution and to be in full compliance with all statutory and regulatory requirements regarding capital. It will take time for credit unions to adjust their balance sheets related to this new regulation.

Earnings requirements will have to be balanced with the risk weighting of the assets necessary to build the earnings. Some investments will have to be shortened. Some loans will have to be divested – or at least the position in those loan categories adjusted.

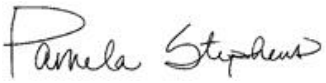
Several questions including: which ratio is the primary one credit unions should manage to and what will the corrective

action requirements if one is met while the other is not – will need to be clarified through Letters to Credit Unions and Supervisory Guidance.

In summary, I support a balanced risk-based capital rule that will make the credit union system safer, sounder and better positioned to compete than at any time in its history. The existing proposed rule does not achieve that outcome and I urge you to consider refining the rule and allowing for a more realistic timeframe for implementation.

Thank you for the opportunity to provide comments on this critically important matter.

Sincerely,



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