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May 19, 2014

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

Re: Comment to the Proposed Prompt Corrective Action – Risk-Based Capital Regulation

Dear Mr. Poliquin:

<u>Insufficient Information</u>

The first comment is that although the proposed rule documentation was quite lengthy, there is no discussion on how the respective proposed risk ratings were established. Why did NCUA assign the respective risk ratings to the particular assets? The ratings seem especially arbitrary when compared to each other. Why is a CUSO investment risk rated at 250% when a delinquent consumer loan is risk rated at 150%? Why is a business loan held by a credit union risk rated a maximum of 200% when a credit union's investment in a CUSO that holds business loans risk rated at 250%?

I could go on. The point is that these risk ratings seem to be picked out of mid-air without any justification and I know that is not true. I know that because NCUA told me how it came up with the CUSO investment risk rating of 250%. It is based on an analogy to bank equity holdings but that reasoning was not in the proposal. Since I know the reasoning through my independent investigation, I can put forth an argument as to why the analogy is faulty with the hope of convincing NCUA to change its mind. If NCUA had not told me of their reasoning I would not have the ability to make a comment that is meaningful to the rule maker. Unless NCUA provides the factual basis for its various proposed risk ratings, we commentators are shooting in the dark. This lack of information undermines the effectiveness of the comment process and that is extremely disappointing given the pervasive impact of this proposed regulation.

CUSO Investment Risk Rating

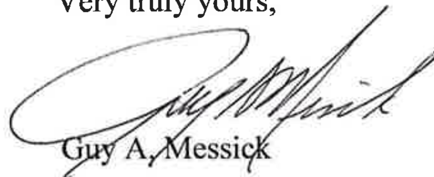
Finally I ask why the CUSO investment risk based capital is more than 100%? Some CUSOs are successful and some are not. Every CUSO that is formed has to have a legal opinion that the credit union's risk is limited to its investment amount. When credit unions write off their CUSO investments, the asset lost does not exceed the investment amount.

Some CUSOs have contributed to credit union losses due to operational risks (e.g., poor lending practices) but operational risk is irrelevant to rating the risk of holding an asset. If you ever wanted to risk rate the operational risk of using service providers, you would include CUSOs and non-CUSOs in that analysis.

Using the analogy of a bank's equity investment risk in a company that it may not control to the risk of a CUSO investment is flawed. A CUSO provides returns to credit unions that are in many forms, e.g., more income, operational costs savings, and additional ways to connect to members. A CUSO that saves money on operational costs usually provides a "return" on the investment from day one. A bank only realizes a return on its investment based on a profit in a company that the bank may not control. It is apples and oranges.

NCUA's risk rating of CUSOs at 250% makes absolutely no sense no matter how you view it and it is extraordinarily bad policy. The income earned and costs saved through CUSOs have literally saved credit unions from net operating losses. The message being sent by NCUA on CUSO investments could not be worse. CUSOs are one of the most effective means to add capital to credit unions. Any steps to discourage investments in CUSOs are contrary to the goal of NCUA to increase capital levels in credit unions.

Very truly yours,



Guy A. Messick

cc. Chairman Deborah Matz
Board Member Rick Metsger
Board Member Michael Fryzel