FIRSTMARK
Credit Union®

May 13, 2014

MAY19'14 PM 2:01 BOARD

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

Via e-mail: regcomments@ncua.gov

RE: Comments on Proposed Rule: Prompt Corrective Action – Risk-Based Capital

Dr. Mr. Poliquin,

Firstmark Credit Union (FMCU) appreciates the opportunity to submit comments on the National Credit Union Administration's (NCUA) proposed rule Prompt Corrective Action – Risked Based Capital (RBC). FMCU is committed to being our member's first choice for innovative and convenient financial services.

FMCU is analyzing all aspects of the RBC proposal, its proposed effects on FMCU and the credit union industry. FMCU feels strongly that given credit unions managed to remain strong through the worst financial crisis in the past 80 years or so, this rule is largely without merit. Furthermore, if the proposed rule is adopted as written, it will place an undue burden upon credit unions to comply. In fact, most affected credit unions would need to increase the amount of capital held in order to be well capitalized, and would likely face burdensome risk weightings that would serve as a disincentive to continue or enter into member business and mortgage lending programs, and long-term investments, inevitably pushing members to credit unions' competitors.

Proposed risk-weights

There are several instances where inconsistencies in the rule do not seem to have merit and need to be addressed:

- Treasury bills and U.S. government obligations have a 0% risk weighting, but a deposit in the Federal Reserve has a 20% risk weighting.
- NCUA risk-weighs investments based on maturity. NCUA stated it based the weights on a 300 bps shock test and distributed the investment risk weights as follows: less than one year, 20%; one to three years, 50%; three to five years, 75%; five to 10 years, 150%; and more than 10 years, 200%. Any ALM risk test would also consider the funding of investments using standard NEV volatility tests to determine if there was unmatched or excessive risk. To risk-weight balance sheet assets for IRR in isolation of the funding strategy is inconsistent with how credit unions manage daily ALM decisions and is contrary to all modeling practices.
- A portfolio of 30-year, first mortgages with less than 25% of assets has a risk weight of 50%. The same asset class purchased in a GSE security with a weighted average life of five to 10 years is risk-weighted as an investment at 150% even though there is no default risk.

- A member business loan with a seven-year balloon maturity and with MBLs less than 15% of assets is assigned a 100% risk weight. A seven-year bullet agency security with no credit risk is assigned a 150% weight.

Examiner discretion to change risk ratings

Section 702.105 states that appropriate capital levels for an individual credit union cannot be determined solely through the application of rigid mathematical formula or wholly objective criteria. The decision is necessarily based, in part, on subjective judgment grounded in NCUA expertise. The ability to override NCUA's own rule enables an examiner to substitute their judgment for the responsibility of the Board and management to set and maintain appropriate policies for the credit union. Given what we have seen throughout the credit crisis and the credit union's exam experience, we recommend this section be removed from the proposed rule entirely.

Other areas of concern

There are several other areas that we believe need to be addressed within the proposed rule or at least in concert with the proposed rule:

- The proposed rule does nothing to address supplemental capital and it does not appear to be on the horizon any time soon. The proposed rule will result in many credit unions needing additional capital without any new means of raising it.
- This proposed rule is more punitive than Basel due to over emphasis on concentration risk and interest rate risk.
  - No credit is provided for established historical performance in mortgage loans or MBL asset categories. Risk weighting in this area is primarily concentration based and there are no mitigating factors for LTV, credit rating or performance.
  - Performing consumer loans with collateral should have a lower risk rating than unsecured consumer loans.
- 250% on CUSO investment weight seems arbitrary and is on the current value of the CUSO. This seems to penalize growth in the investment value.
  - There is no recognition in risk weighting of different types of CUSO's.

Implementation Date

We are recommending that the proposed implementation date of eighteen months after becoming final be extended. This does not give credit unions sufficient lead time to plan for the new risk-based capital ratio requirements and other proposed changes to part 702 and implement them properly. This is particularly important as many credit unions may wish to alter their balance sheet composition in response to the rule. We are urging the agency to provide a much longer implementation period, particularly in light of the multi-year development and implementation of Basel III for banks.

Conclusion
Firstmark Credit Union would remain well capitalized in the proposed system, but our capital cushion would shrink. Our members would see its cushion over well capitalized shrink by a total of $2,779,206 if the proposal were in effect today. We now have a cushion over well capitalized equal to 235 basis points on total assets, but under the proposal, the cushion over well capitalized would decline to 201 basis points on total assets. The FMCU appreciates the value of a financial institution's capital as a key source of funding that can be readily deployed to shore up a balance sheet under duress and the need for regulatory oversight. In that spirit, we are asking NCUA to carefully weigh the comments received and to pursue the appropriate amendments to this rule that will ensure a viable, well-balanced risk-based capital system is implemented.

Thank you for the opportunity to comment on the proposed rule Prompt Corrective Action – Risk-Based Capital. If you should have any questions, please contact me at ewinge@firstmarkcu.org or 210-308-7800.

Sincerely,

Leon Ewing
President/CEO

Cc: Deborah Matz, Chairman
Michael E. Fryzel, Board Member
Richard Metsger, Board Member