PINE Federal Credit Union

May 19, 2014

Mr. Gerald Poliquin
Secretary of the Board
National Credit Union Administration
Via Email to regcomments@ncua.gov

RE: Prompt Corrective Action; Risk-based Capital

Dear Mr. Poliquin,

Although we are currently under the +50 million dollar threshold for the NCUA's new Risk Based Capital Proposal, we won't be under that amount for very many more years. Pine Federal Credit Union is a 36 million dollar credit union with a low income designation. We are a conservatively managed operation. At year-end 2013, our credit union had a 23.46 net capital/total asset ratio. That we have that much capital is a choice determined by our Board and Management because our membership base is industrial and plants sometimes have layoffs or close operations. It is our responsibility to recognize and manage the various types of risk which affect our institution. No one is better suited to recognize and measure such things as those closest to the sources of potential problems.

The NCUA's desire to pass a new Risk Capital Proposal is not only misplaced, it misses the target all together. No one is better positioned to determine needed capital than the individual credit unions that use their Board of Directors, Management Team, and Auditors to measure and manage threats and opportunities to fit their market space and membership base. Credit unions were not the cause of the last series of banking miss-steps in 2008; the corporates were the ones with too much risk and too little capital. The recapitalization and restructure of the Corporates will prevent such future melt downs.

We must oppose the proposal as drafted because it is flawed in several regards, as detailed below.

Pine Federal Credit Union strongly supports the comment letter submitted by Representatives King and Meeks, and signed by more than 320 members of the U.S. House of Representatives. Our credit union agrees with the concerns raised in that letter including concern regarding potential adverse effects on credit unions and credit union members. Specifically, the letter encourages NCUA to:

1. Take into account the cost and burden of implementing new risk-based capital requirements beyond current ratios;
2. Provide justification and more clarity as to why the risk weights differ from those applied to other community financial institutions; and,
3. Give credit union more time to come into compliance.

Additionally in a comment letter to NCUA, former Senator Alfonse D'Amato clarified congressional intent behind the prompt corrective action ["PCA"] legislation. Specifically, he stated that applying a risk-based capital standard to determine whether a credit union is well capitalized is inconsistent with congressional intent with the PCA statutory language was crafted. Such an action by NCUA would exceed the authority conveyed to it under the Federal Credit Union Act. Senator D'Amato explained that the statute implemented a higher pure net worth requirement for credit unions and instructed NCUA to construct only a risk-based net worth floor, rather than the dual risk-based capital system in place for banks. We completely agree with that viewpoint.

Our Board and Management feel that NCUA has exceeded its authority by imposing a risk-based capital requirement for well capitalized credit unions higher than the requirement for adequately capitalized credit unions.

Lack of Justification for the Proposed Risk Weights (Sec. 702.104)
Due to the lack of justification by NCUA in the proposal commentary, the risk weights appear to be unsupported and arbitrary. Many of the risk weights are inappropriate and do not accurately reflect actual risk. The weightings do not account for the individual management strength of credit unions and areas in which credit unions and/or investments have a history of proven success. The risk weights ignore the historical market experience of the industry. The revaluation of certain asset weighting under the proposal could change a credit union's PCA without any reasoned justification. When there is no historical reason to pile such potentially destructive regulations on credit unions, why do this to them? It is quite possible if such actions are not curtailed soon, that when credit unions perform their due diligence in their risk assessments, the NCUA itself will need to be listed as a major threat to the continued successful operation of credit unions in the United States.

For some risk categories, the weighting is the same for all loans or investments in that area. The risk weight categories are over generalized. For example, category 4 includes both unsecured and secured loans. Secured loans carry less risk and should be assigned a lower risk weight than unsecured loans.

Several of the risk weightings are ridiculously excessive, especially the proposed weighting of 250% for CUSO investments. In the proposal, all CUSO investments are treated the same regardless of the type of CUSO or its record of performance. How on earth did the NCUA derive such arbitrary methodology? While CUSO investments do have a degree of risk, we believe this weighting to be much higher than what is warranted. The proposal also fails to consider the nature and past performance of a CUSO, which greatly impacts its level of risk. The proposal penalizes growth in investment value. It is likely that many of our credit unions will look to divest their interests in CUSO's entirely, or severely curtail their ownership if such risk levels are applied. This will reduce opportunities for credit union growth and will ultimately reduce member service offerings.

The proposal imposes a high risk weight on residential mortgages, including those guaranteed by the federal government. The risk weight for government backed loans should be lowered to account for the reduced risk related to government guarantees. Additionally, other factors such as real estate loan-to-value should be considered, rather than the approach based solely on concentration risk. The maximum weight assigned to residential mortgages by banks under Basel III is 50%. NCUA has failed to justify why credit unions should warrant as high as 100% for some residential mortgage loans. Is there some other agenda afoot here, or is the NCUA just being overzealous in its desire to protect the share insurance fund with a "the sky is falling methodology"?

The proposed risk weights for long-term investments do not take into account applicable credit or asset liability management considerations; it only captures interest rate risk concerns. A risk weighting focused solely on the average life of an investment does not accomplish the goal of addressing risk in its entirety.

The proposed risk weights also imply that an "apples-to-apples" comparison is possible between different kinds of investments. It is absurd to assume that every investment in a CUSO and mortgage servicing asset would be equivalent, and to assign identical risk weightings to each would in no way be an accurate representation of the actual risk involved.

In many areas, the risk weighting is even more punitive than that for community banks under Basel III. We would ask that this risk-weighting be re-evaluated to more accurately reflect the risk to credit unions.

Consistency with Banks

NCUA states that it intends to make the credit union risk-based capital measure more consistent with the measures used by the banks. If Congress intended credit unions to be subject to higher capital requirements than the banks, it would have said so. Basel III, the system used for banks, is focused on credit risk. However, the NCUA RBC proposal covers not only credit risk, but also interest-rate risk, concentration risk, liquidity risk, operational risk, and market risk. Furthermore, NCUA's proposal weighs the following areas significantly higher than Basel III: government guaranteed residential mortgages, non-delinquent first mortgage loans, other real estate loans, and MBLs. NCUA has not justified why its RBC proposal is significantly broader and more burdensome than Basel III.

NCUA says it intends the RBC proposal to bring consistency between the bank PCA and credit union PCA, but that approach fails to take into consideration the unique aspects of credit unions, including restraints on how credit unions can raise capital. Unlike the systemic risk created by the too big to fail banks which led to the 2007 - 2008 economic crisis, credit unions have proven responsible business practices and success over time. As a result, credit unions should be afforded regulatory relief and treatment commensurate with our responsible practices and individual risk to the NCUSIF.

Impact on Credit Union and Members

We believe that the proposal, as drafted, will drastically affect how we do business in the future, and how we will be limited in serving our members. Based on the proposed risk weights, we anticipate that the proposal will cause many credit unions to limit activities in consumer lending and residential mortgages. This directly affects the members, many of whom rely on the credit union movement for such loans.

Subjective Determination of Higher Capital Amounts (Sec. 702.105)

Under the proposal, NCUA has the authority on a case-by-case basis to increase the amount of capital a credit union is required to maintain. In other words, even if a credit union is in compliance with the rules, NCUA could require more capital. Despite the proposed "process" we feel that the NCUA board would retain the ability to delegate such power down the chain, perhaps to the examiner level. We adamantly oppose this provision of the proposal because such power is overly broad and not justified. It is unreasonable to think that a credit union that plays by the rules and is in compliance could be subject to the will of an examiner.

We prefer an objective risk based assessment, so that our credit unions can operate without fear of prompt corrective action. Over regulation can be more dangerous than no regulation in that no regulation would place the full responsibility for sound management as it was during the heyday of the growth and development of the credit union movement in the United States during the latter half of the 20th century.

Definition of "Complex" Credit Union (Sec. 702.103)
The proposal would define a "complex" credit union as ANY credit union with over $50 million in assets. To be considered a complex credit union under the current rule, a credit union needs to be over $50 mill AND have a risk based net worth over 6%.

NCUA has provided absolutely no justification for expanding the definition of complex credit union. Size alone does not make a credit union complex. When determining if a credit union is complex, NCUA should also consider a credit union's comprehensive book of assets as well as its operations.

Regulatory Burden
The proposal increases the regulatory burdens of all credit unions, even those under $50 million in assets. Credit unions would experience increased costs associated with updating policies, data collection, and updating reporting systems. NCUA has cautioned all credit unions to carefully manage expenses. Why then would the NCUA add this costly, needless regulation to the other regulatory burdens currently hampering credit unions from serving their members? It could be construed as the agency's attempt to show justification for a bigger budget and more examiners by an uninformed observer.

According to the proposal, the estimated burden for each credit union (even those under $50 million) to collect risk-based capital ratio data will include:

- One-time recordkeeping, 122 hours
- On-going recordkeeping; 20 hours
- One-time policy review and revision, 20 hours

Additionally, the estimated burden of the risk based capital ratio policy implications on complex credit unions (those over $50 million) includes:

- One time policy review and revision, 40 hours
- Total estimated annual burden:
  - One time recordkeeping and disclosures: 162 hours per complex CU, 122 hours per noncomplex CU
  - On-going record keeping, 20 hours all credit unions

In other words, NCUA estimates the rule will create an additional 162 hours annually for credit union of less than $50 million. That's over four weeks of work for a full-time employee, provided that NCUA has not underestimated the work involved. Keep in mind many of our small credit unions have between 1-5 employees and cannot lose the employee staff time. 160 hours is equivalent to the credit union being short-staffed for over a month! Meanwhile, the members suffer as the credit union is not able to properly serve them. These burdens are above and beyond the countless other regulatory burdens with which credit unions are struggling today.

Extension of Compliance Date
Pine Federal Credit Union strongly opposes the proposed eighteen months for compliance with a final rule if passed as is and requests that NCUA provide a minimum of 60 months to comply. Eighteen months is counter-productive, especially in light of the fact that Basel III allows banks until 2019 to comply. Under the proposed timeline, credit unions looking to alter their investment portfolio due to the RBC method may be forced to sell investments at less advantageous terms. This is not in the best interest of the credit union or the credit union system. NCUA used extra time for the markets to recover when it set up Bridge Operations for the Corporates to recover some of the lost asset value in investments during the financial crisis. Why then, punish natural person credit unions who are merely trying to maximize earnings on investments for their members?

Additionally, submission of the call report will be a significantly slower process. The call report will be more costly and more complicated due to the amount of new information to be provided. Gathering such information will require changes by data processors, additional staff time, staff training—all of which will takes time and costs money. This decreases the time and resources the credit union can provide back to its members. This proposal is a burden on all credit unions, not just those over $50 million. Is it coincidence or malicious planning that these new requirements will coincide with heavy fines for late call report submissions by credit unions to the NCUA? Has the servant now become the master?

Summary
In summary, we urge NCUA to remember that its job is to regulate credit unions so that they may thrive and grow; the NCUA should not be managing the credit union balance sheet. We support a risk-based evaluation, just not the particulars of this proposal. We hope that NCUA will give great thought and consideration to the flood of comments on this very important issue and revise the rule as requested. We must go on record as opposing the Proposed Risk Based Capital Regulation as presented. Less regulation would result in better buy in and stronger, more efficient credit unions. The NCUA is charged with making sure the Credit Union Movement is stable and sound. This proposed regulation will actually cause the opposite result.

Sincerely,

Robert Johsnonn- Board President
Debbie Gatlin- Board Secretary/Manager
Betty Chandler-Assistant Manager
Terry Tucker-Operations Manager
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