

May 9, 2014

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

Sent electronically at: <http://www.regulations.gov>

Re: Prompt Corrective Action – Risk Based Capital – RIN 3133-AD77

Dear Mr. Poliquin:

My name is Angie Owens and I am the President and CEO of American Airlines Federal Credit Union (AAFCU). AAFCU is a federally chartered credit union headquartered in Fort Worth, Texas, with approximately \$5.6 billion in assets and more than 236,000 members located throughout the United States. AAFCU prides itself in its well-capitalized classification and significant organizational focus on regulatory compliance.

I appreciate the opportunity to comment on the National Credit Union Administration's (NCUA) proposal regarding prompt corrective action which includes replacing the agency's current risk-based net worth requirements with new risk-based capital requirements for federally insured "natural person" credit unions (Proposal or Proposed Rule).

AAFCU is very concerned about the adverse impact that the Proposed Rule would have as we believe there is not a demonstrated need for a wholesale replacement of today's risk-based net worth model. Given the overwhelming compliance burdens placed on natural person credit unions today, such a far reaching and complex rule at best results in an unnecessary distraction, and could likely result in credit unions being placed at a competitive disadvantage to other regulated and non-regulated providers of financial services.

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AAFCU opposes the wholesale replacement of the risk-based net worth model in use today with a complex and unproven model as proposed. We strongly believe in the need for appropriate capital reserves, suitable regulatory guidance and appropriate supervision to ensure a safe and sound credit union industry. We believe that the shared goals of a safe, sound, competitive and member service oriented credit union industry can be met with an update to the existing model rather than the introduction of a new and unnecessarily complex model.

#### Consistency of Approach Does Not Recognize Credit Union Industry's Uniqueness

In the summary to the Proposed Rule, it states that the "proposed risk-based capital requirements would be more consistent with the NCUA's risk-based capital measure for corporate credit unions and the regulatory risk-based capital measures used by ... Other Federal Banking Regulatory Agencies."

This stated goal of consistency as an objective and articulated at various points in the Proposed Rule does not take into account key differences between natural person credit unions and those other entities. When compared against the stresses of the Great Recession, natural person credit unions overall performed better or significantly better as compared to corporate credit unions and banks in terms of delinquency/charge-off rates, volume of problem institutions, number of insolvencies and dollar costs to their respective insurance funds. These are not areas where greater consistency is desired.

In addition, the Proposed Rule does not take into account the various additional options banks and bank holding companies have for raising capital which are above and beyond the limited options available to natural person credit unions.

#### Well Capitalized Classification Uncertainty

From a review of the Proposal, it is our understanding that the rule introduces an additional hurdle to achieve "well capitalized" status. In a change from the current risk based model, credit unions would appear to require incremental capital calculated both under the traditional leverage ratio and under the new risk-based capital ratio.

Beyond the absence of a quantitatively expressed need for the additional 250 basis points of risk weighted capital now required to achieve a well capitalized classification, it is our understanding that significant legal questions have been raised as to whether the agency has the authority to propose such a change, as well as whether such a measure was the intent of the statute as referenced.

Notwithstanding the legal uncertainties, requiring additional capital, estimated by industry observers to be in the billions of dollars, limits the ability of credit unions to invest in products and services desired by its members, limits credit unions' ability to reward its members for their participation in the cooperative and inadvertently limits us from competing with other regulated and un(der)regulated providers of financial services. Even if the legal basis for incremental risk-based capital is upheld, we would recommend the agency have a single 8.0 percent risk based capital ratio requirement with the leverage (net worth) ratio serving as the differentiator between adequately and well capitalized classifications.

#### Alignment of Risk Weightings

The Proposed Rule sets out the "requirement" to address credit, interest rate, concentration, liquidity, operational and market risks. As illustrated best in the risk weightings themselves, the ability to address such a broad spectrum of risks using a single metric (i.e. risk weighting percentage) is unlikely to achieve its stated purpose and could create unintended consequences.

The risk weightings at times are accompanied with qualitative descriptions providing insight to the specific risk weighting. However, in general the Proposal does not appear to provide sufficient insight for the basis of the numeric risk weightings themselves, nor is a suitable description provided of the mathematical difference between the heightened risk weightings used in various categories (i.e. Why is cash weighted at 20% v. 15% or 25%?; Why is the member business lending risk weightings in increments of 50 basis points v. 15 or 25?).

Lack of suitable insight supporting the risk weightings themselves, including appropriate consideration for additional regulatory limitations placed on credit unions in many of these scope areas, leads to inherent questioning of the robustness of analysis on which the Proposed Rule is based.

Below are several examples regarding risk rating alignments that appear flawed:

- Loans v. Investments – Using the proposed risk weights, \$1 million in 10-year treasury notes would carry a zero percent risk weight v. \$1 million in performing automobile loans which would carry a 75 percent risk weight. These risk weightings perhaps adequately capture the credit risk associated with the

automobile loans, but do not appear to address the interest rate risk associated with the longer term treasuries.

- Credit Union Service Organizations (CUSOs) - Loans and investments in CUSOs are risk weighted in the Proposal at 100 percent and 250 percent, respectively. Foremost, the Proposed Rule aggregates all CUSOs into one category which does not accurately reflect the significant variety of CUSOs present in the industry.

For example, a credit union could do business with a large credit/debit card CUSO owned by numerous credit unions. In exchange for its business, the credit unions may receive a patronage dividend each year payable in a mix of cash and equity with the aggregate patronage dividend recognized in income consistent with generally accepted accounting principles (GAAP). While the equity portion is accounted for as a long-term asset with required impairment testing under GAAP, the Proposal would assign a 250 percent risk weight to this asset, both increasing the credit union's cost of doing business with that CUSO, and in aggregate placing the CUSO at a competitive disadvantage to publicly traded and bank-owned companies providing the same services.

Conversely, investments in that same CUSO described above (large CUSO, able to fund itself) are assigned the same risk weighting as investments in small, newly organized CUSOs owned by a small number of credit unions and struggling for stability. This singular treatment of all CUSOs does not appear to achieve a suitable alignment with concentration, credit or market risk components.

- Examiner Determined Capital Requirements – Finally, the use of a 1,250 percent risk weighing for certain asset-backed investments and individual minimum capital requirements are both unnecessary when viewed within the complexity of the Proposed Rule and create the possibility for misunderstanding and confusion if applied in practice.

While we share the view of the NCUA and the industry that a well defined, well understood risk based framework for the determination of the appropriate level of capital is both necessary and desired, the Proposal as issued appears both unnecessary in breadth and unlikely to result in a betterment of the industry's competitive position or ability to withstand future economic stresses.

We would recommend the agency strongly consider withdrawing the current Proposal. We recommend that the agency instead perform a gap analysis to determine the more

narrow areas where today's existing risk based net worth model and various examination and administrative remedies merit enhancement to address the small number of credit unions where an unacceptable risk may exist.

In a time of overwhelming regulatory demands, increasing competitive pressure from both regulated and un(der)regulated entities, and no pressing need to drive wholesale changes to a model which proved itself superior in the most recent economic environment, we respectfully request the agency to reconsider negatively impacting the credit union industry and the millions of Americans who depend on it with an unproven and unnecessarily complex and expensive regulation.

Thank you for taking the time to review our comments. We have great appreciation for the knowledgeable and professional staff of the agency and its shared desire to ensure a safe, sound and competitive credit union industry for the members who depend on credit unions for their financial needs.

If you have any questions, please contact me.

Sincerely,



Angie Owens  
President & CEO  
American Airlines Federal Credit Union

cc: CUNA  
NAFCU  
Cornerstone League