FIRST COMMERCE
CREDIT UNION
Committed to you.

May 20, 2014

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

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

Dear Secretary Poliquin;

I am writing on behalf of First Commerce Credit Union (FCCU), which serves 13 counties in the Panhandle of Florida and south Georgia. We have over 40,000 members and our asset base exceeds $400,000,000. The management of First Commerce Credit Union appreciates the opportunity to provide comments to the National Credit Union Association (NCUA) on its proposed rule, Prompt Corrective Action – Risk-Based Capital.

We believe that this proposed regulation will have a negative impact upon our members and our credit union, as well as on the credit union industry as a whole. While we will remain well capitalized in the proposed system, our capital cushion will shrink by $2,784,532. From a capital ratio perspective, our cushion over the well capitalized floor will fall by 73 basis points from 573 to 500 basis points; a reduction of almost 13%. As a result of this, and other factors proposed in the regulation, we may be forced to manage our balance sheet very differently, which will most likely result in curtailing lending to our members, or at a minimum, reducing our loan product offerings.

Consequently, we don't believe this proposed regulation is necessary or brings any benefit to the industry as it is currently written. While one could argue that a risk based concept could provide strength to the credit union industry, recent history would indicate otherwise. For example, prior to joining the credit union industry, my 37 year career in the financial services industry included working as a national bank examiner, working in the banking industry for over 25 years, and being employed by a bank that later failed. Because of my personal experience, I can attest to the fact that over the four year period when the bank was in trouble, the examiners were only concerned with the equity capital ratio, as they recognized that this was the true indicator of whether the bank would survive or not. The fact that so many banks have failed after the introduction of the risk based capital ratio some 20 years ago, would indicate that this will not necessarily bring any protection to the credit union industry or prevent credit union failures. I find it interesting that compared to the large numbers of bank failures over the past five years, there were relatively few credit union failures. This is borne out by statistics that reflect the FDIC's loss rate per $1,000 of deposits was $2.30 vs. the NCUA loss rate of $0.26 per $1,000 of deposits. This is solid evidence that the current system works as intended by Congress.

I also find it interesting that former Senator Alfonse D'Amato, who chaired the Senate Banking Committee and led the development of the prompt corrective action sections of the Federal Credit Union Act, has indicated that the NCUA will exceed its legal authority if it adopts the risk-based capital proposal. As you are aware, Senator D'Amato concluded in his letter to the NCUA, "If we had intended there should also be a separate risk-based requirement to be well capitalized (in addition to the 7% net worth ratio), we would have said so". This may be the strongest indictment yet of the proposed regulation. I understand that more than 300 House members have signed a letter in opposition to this proposed regulation. This letter's opposition is centered on the potential effects related to the consequences of reduced liquidity and lack of financing available for families and small businesses.

I am very concerned by the NCUA's willingness to allow field examiners to impose additional capital requirements on a case by case basis. Having been a field examiner earlier in my career, and having dealt with field examiners both in banks and credit unions for 30 years, I fear that the results of these actions will cause great disparity in capital ratios between credit unions of similar risk characteristics due to the personal bias and perhaps lack of expertise to make these decisions.

We are also in firm opposition to the risk weightings you have assigned for various asset sectors, while concurrently providing no consideration for the value of the deposit segment of the balance sheet. The fact the risk weightings are geared to years-to-maturity and ignore credit risk, makes them suspect and only allows for a somewhat inaccurate measure of interest-rate risk. It is also disturbing that the ratio ignores the relevant fact of whether the instrument has a fixed or variable rate: a critical oversight if the NCUA is attempting to measure interest rate risk. This ratio also ignores duration, which again, is a critical component if the goal is to measure interest rate risk.

Finally, this rule would require credit unions to keep, on average, a 128% higher capital level than banks. This equates to $1.8 million in capital per $100 million in assets and serves as a prohibitive penalty. In order to keep our capital ratio requirement equal to that of a bank, we can **NEVER**: 1) invest in securities that have a maturity in excess of one year (*penalty ranges from 30 to 170 basis points depending on maturity*); 2) allow our ratio of first residential mortgage loans to exceed 25% of our total assets (*penalty is 25 basis points*); 3) allow any loans to become delinquent (*penalty is 50 basis points*); 4) allow our ratio of business loans to exceed 15% of total assets (*penalty ranges from 25 to 50 basis points*) or; 5) make unfunded business loan commitments (*penalty is 55 basis points*). The only sector in which a credit union has an advantage over a bank is in consumer loans and the advantage is only 25 basis points.

How can this possibly be good for our credit union or for the industry? Why should our members be penalized as compared to bank customers? The proposed risk weightings would imply that the NCUA would prefer that we remove all risk from our balance sheets, thus eliminating not only loans to members, but in most cases, government backed securities. This will certainly give an unfair advantage to the banking industry, the real culprits behind the 2008 financial debacle!

Another area that is not logical is the decision to exclude goodwill from the RBC numerator. This implies that the goodwill has no value and should be charged off. This certainly does not agree with Generally Accepted Accounting Principles.

The proposed regulation has an 18-month implementation timeframe for credit unions to comply with these new capital standards. Not only does this not allow adequate time for transition, but it is significantly shorter than the five year implementation period allotted to banks to comply with Basel III. Again, here is another example of an unfair advantage being given to the banking community by the NCUA.

In closing, the implementation of this proposed regulation will very likely make credit unions less competitive in the market place and could eventually make the industry irrelevant. As discussed, the proposed regulation contains many inconsistencies and for whatever reason, gives a number of unfair advantages to the banking industry. It appears that the NCUA is trying to correct a problem that simply does not exist at the risk of doing great harm to the credit union industry.

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We would request that this proposed regulation be removed from consideration or, at least, significant changes be made prior to its implementation. Please listen to Congress and the credit union industry before proceeding further with its implementation. If the decision is made to continue down this path, we recommend that the NCUA consider the unique characteristics and qualities of credit unions, the low number of credit union closures vs. bank closures as a result of the Great Recession of 2008, and create a risk-based standard that is comparable to Prompt Corrective Action systems employed by other Federal Banking Regulatory Agencies under Basel III.

Thank you for the opportunity to comment on this proposed rule and for considering our views on risk based capital requirements.

Sincerely,

Dennis G. Adams

Dennis G. Adams
Vice President/CFO

Cc: Credit Union National Association
League of Southeastern Credit Unions
Rep. Steve Southerland