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May 20, 2014
Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: RIN 3133-AD77
Risk Based Capital Proposal Comment Letter

Dear Mr. Poliquin:

Achieva Credit Union ("Achieva") would like to take this opportunity to comment on the National Credit Union Administration ("NCUA") recently issued proposal to create a new risk based capital regulation for the credit union industry. Achieva Credit Union is a \$1.005 billion asset Florida based community chartered credit union headquartered in Dunedin, Florida with 19 branches in nine counties. It has been in business since 1937 and, at this date, has over 11% regulatory capital. I believe Achieva is well regarded by both the Florida Office of Financial Regulation ("OFR") as well as the NCUA.

Before commenting on specific provisions of the proposal I would like to make a few observations:

1.) I don't know that I quite understand why the NCUA feels this proposal is necessary at this time. The natural person credit union ("NPCU") industry has come through one of the worst economic periods in this country's history in relatively good position, certainly in a better position than community banks, with the Prompt Corrective Action ("PCA") and Risk Based Net Worth ("RBNW") requirements currently in place. While there are some exceptions to this statement (mostly smaller NPCU's, **few** larger NPCU's), the losses sustained by the insurance fund were primarily caused by corporate credit unions who operate with a completely different business model than NPCU's. Additionally, a significant portion of the decline in NPCU net earnings during the economic downturn was a result of the impairment charges recorded on corporate credit union investments as well as assessments paid to the corporate credit union stabilization fund. Other points to mention in response to the NCUA's concerns that the current PCA requirement is inadequate for measuring the risk the industry poses to the insurance fund is that the NPCU segment of the industry has not paid an NCUSIF premium since before the financial crisis began in 2008; the NCUSIF insurance fund ratio to insured deposits has ranged from a low of 1.23% to a high of 1.30% for the last 25 years (as opposed to the FDIC insurance fund which has actually been negative in three separate years in the last 25, the most recent time being in 2010); from 2007 through 2013, the losses experienced by the NCUSIF fund have been \$0.26/\$1,000 of insured deposits versus FDIC losses of \$2.30/\$1,000.

2.) The significance of the negative impact on the future of the credit union industry, in general, and its balance sheet management, specifically, if this proposal were adopted in its current restructuring a balance sheet will be negative for earnings and capital. A period longer than 18 months is needed.

8.) One of the consequences of this proposal on a number of credit unions, whether intended or not, is that the capital cushion they currently enjoy under the prompt corrective action standard will be reduced creating new competitive pressures. With the only way to increase capital being through earnings and with the impact of this proposal potentially being i.) reduced growth which leads to lower earnings, ii.) investment in less risky, shorter duration assets resulting in lower yields which leads to lower earnings and iii.) disposing of assets at losses, two things are needed in the final regulation. A longer implementation period to allow time to rebuild capital and the ability to raise supplemental capital. Even if supplemental capital were only to count toward meeting the risk-based requirement, it would be a major positive step forward.

9.) The members of every NPCU are going to be negatively impacted by this regulation. Since this standard will result in enhanced capital pressures, every NPCU will have to reevaluate the pricing of its loan, deposit and other products and services. The result of this reevaluation is unlikely going to be better pricing for the member. Members at every NPCU that this regulation applies to will pay higher rates for loans, earn less interest on their deposits and pay higher fees for products and services in order to put their credit union in a position of being able to meet the well-capitalized risk based capital ratio requirement.

10.) The NCUA stated in the proposal that it tried to structure the proposal as much as possible around the current Call Report. This seems to be too simplistic of a justification for such an important and complex proposal. Since the NCUA has defined the credit unions that the final regulation would apply to as "complex", it would seem that the covered credit unions would have the ability to provide the data needed in the Call Report to meet a more properly designed risk-based capital requirement. I would suggest the NCUA focus more on the right regulatory framework rather than worrying about the information that is currently provided in the Call Report. If a credit union is truly complex, it should have the ability to meet the necessary enhanced reporting requirements.

11.) Consolidation in both the credit union and banking industries has been significant the last several years. In fact, a number of credit union mergers of banks have occurred somewhat recently with the experts opining that this trend would continue if not increase in frequency. The reasons for industry consolidation are many: asset quality problems, earnings pressures, capital inadequacy and the increasing regulatory burden on smaller institutions. It would seem that at least some of the industry consolidation that is taking place for the above reasons is not just welcomed by the regulators but is also openly desired. Both the higher capital requirement within this proposal as well as its treatment of intangibles (the goodwill and core deposit intangible created by mergers) has the potential to drastically reverse this trend, especially for distressed institutions. The double whammy of the leveraging of capital and creation of intangibles and the resulting negative impact on risk-based capital ratios will lead many otherwise willing credit unions to eliminate mergers as an expansion strategy. If this were to happen, the industry would lose an effective and efficient way of increasing branch footprints, adding new members, opening new markets and increasing earnings and capital. In other words, surviving.

12.)This proposal, if adopted as proposed, would establish a significantly different way of determining the proper level of risk based capital for a credit union than what is currently the case for banks. The NCUA has chosen to address credit risk, interest rate risk, concentration risk and liquidity risk in its proposal whereas the banking industry standard focuses on credit risk only. I believe the credit risk only approach was taken by the banking regulators because they recognize and accept the fact that they have other, more than adequate, regulatory tools to deal with interest rate, concentration and liquidity risks. The same tools that the NCUA has available. This is another example of the competitive disadvantage that this proposal would put the credit union industry in compared to banks. In fact, the proposal has a comment in it that "...the rule would modify the current calculation method for computing RBNW to be more consistent with the risk-based capital measures used by Other Federal Banking Regulatory Agencies." I strongly disagree that this is the case.

13.)As the NCUA knows, the Financial Accounting Standards Board ("FASB") has been working on a proposed Accounting Standards Update since 2012 regarding the perceived delay in the recognition of credit losses. While at this time no one knows what or when a final standard will be adopted or even if it will apply to credit unions, the preliminary indications are that the proposal as it currently stands could have a significant impact on the dollar amount of allowance for loan and lease losses ("ALLL") that credit unions would be required to record. In fact, some studies have indicated that the impact could be to at least double the currently required ALLL. It would seem prudent that the impact on the capital of the industry of whatever FASB decides be better defined before a new risk based standard is put in place. To not do so will only put more pressure on the future earnings and long-term survival of the industry.

14.)The announced schedule for adopting a final standard is not adequate for the proper vetting of the complexity and impact of the proposal. I know that the Credit Union National Association ("CUNA") has requested a longer than 90-day comment period more than once and that the NCUA has declined the requests but more time is necessary if the NCUA is really interested in providing the best final standard that it can. Surely the NCUA wants to provide adequate time for all interested parties, large and small, to provide feedback on the proposal. In addition, any changes made to the proposal after the comment period should be put out for a second round of comments so that the industry has an opportunity to provide additional feedback to the NCUA before a final standard is adopted. This is especially necessary if, as the NCUA has indicated would be the case, substantive revisions are made.

15.)One of the provisions of the proposal would allow the field examination staff to set a higher risk-based capital requirement for an individual credit union than what is required by the final regulation. In addition, if this scenario took place, the proposal does not establish any type of appeals process for the impacted credit union to pursue. In other words, a decision such as this by the field examination staff is final. I would suggest that instead of field examiners being given the authority to make this determination that they only be given the right to make a recommendation to their regional director who in turn would work with the affected credit union to reach a mutually agreeable conclusion. Due process is not only justified in this regard, it should be mandatory.

16.) Excluding liabilities from the risk-based capital proposal, while consistent with the current bank standard, is an oversight on the part of the NCUA. The bank standard only measures credit risk unlike the NCUA proposal which also incorporates certain measurements of interest rate risk but only with regard to assets. Why should two credit unions with similar asset structures have to hold the same amount of risk based capital if one of the credit unions has mitigated their interest rate risk with their liability structure where the other credit union has not? This "one size fits all approach" penalizes the credit union that recognizes its interest rate risk and takes steps to reduce its impact on earnings. It also provides a disincentive from doing so. If the NCUA insists on incorporating interest rate risk measurements into the final standard, then it needs to add a liability maturity structure to recognize management efforts to mitigate that risk.

I would now like to address a number of specific provisions of the proposal:

1.) Risk Factors and Specific Risk-Weights:
   A.) One of the risks identified is delinquent loans. The risk-weightings for delinquent loans are double the weighting for the same product that is current. While I understand the NCUA's concern about the increased risk that a delinquent loan poses to the holder, doubling the weighting on collateralized loans is too punitive since it gives no consideration to the collateral value. Granted, the collateral value may have gone down (not likely to zero) but so has the loan balance through principal payments on the loan. In addition, the potential loss on the delinquent loan has been provided for in the allowance for loan and lease losses. I would concur with higher risk-weightings on unsecured loans but not on secured.
   B.) Another of the risks identified is concentration of MBLs and real-estate secured loans. I would suggest that the concentration thresholds contained in the proposal are arbitrary, not indicative of what a prudent business plan would deem to be a concentration, harmful to earnings, result in capital requirements above what is necessary and put the industry in a position of not being able to serve its membership or compete with banks. The proposal should be revised to raise the concentration thresholds and reduce the risk weightings to at least reduce if not eliminate the previously stated issues.
   C.) Another of the risks identified is equity investments. I will include in this comment investments in CUSO's and investments in corporate credit unions because basically my comment is the same for both. A CUSO investment risk-weighting is proposed at 250% and a corporate credit union investment risk-weighting is proposed at 200%. While I would admit that these investments involve risk, especially the corporate credit union investment as evidenced by the impairment losses booked in 2009 and 2010 by NPCU's, a risk-weighting of a multiple of the investment would seem to be extreme since worst case you can only lose 100% of an investment. As a result I would suggest a risk weighting of 100% is more appropriate unless the intent of the NCUA is to discourage the industry from providing capital to corporate credit unions that it regulates and from the use of CUSO's to create income and capital that the NPCU investor could otherwise not generate.

2.) Section 702.2 – Definitions:
   A.) Allowance for Loan and Lease Losses ("ALLL") – The current Call Report instructions require the reporting of a credit valuation established under GAAP to recognize the potential credit losses of a loan portfolio acquired in a merger as a credit to the reported

loan balances as opposed to a loan loss allowance. This is the reporting required even though charge-offs on any of the acquired loans are recorded as a reduction to the credit valuation. I would suggest that the Call Report treatment of the credit valuation be revised to report it as a component of the allowance. With this change, under the provisions of the RBC proposal, the credit valuation would be included in capital subject to the allowance cap of the proposal.

B.) Capital – The proposal states that it defines capital as measured by GAAP. This is only partly true since qualifying capital for purposes of calculating RBC excludes goodwill and core deposit intangibles recorded in merger accounting. If GAAP says these are assets, then why does the proposal define them differently? I understand that the NCUA is concerned that these assets could become impaired and, if so, would need to be written off; however, the odds of that happening are extremely low and would be a single institution problem as opposed to an industry-wide issue for all institutions involved in mergers. I would also like to note that the core deposit intangible has a stated life and is amortized to expense over that life. It is being written off anyway, why do you feel the process should be accelerated? Lastly, under current GAAP, goodwill is on the books forever unless it becomes impaired. Additionally, even if it becomes impaired it's not automatically totally impaired. Let GAAP deal with the treatment of intangibles as opposed to this proposal.

3.) Section 702.102(a)(1) – The proposed standard establishes a 10.5% RBC requirement acknowledging that this level is higher than the banking industry's current requirement but noting that the banking industry is expected to have to meet this higher requirement by 2019. The proposal rationalizes requiring NPCU's to meet this higher standard now versus later "...to avoid the complexity of implementing a capital conservation buffer." Why is it that the banking regulators feel that, even though banks have a variety of ways of raising capital, they should not increase bank capital requirements too rapidly whereas the credit union regulator feels that avoiding a multi-step process for increasing capital requirements is better than giving the industry, with only one way to raise capital, more time to do so. I would strongly suggest that the "complex" credit unions that this proposed standard will apply to have the ability to deal with a complex implementation schedule for the capital conservation buffer.

4.) Section 702.104 – This section contains a statement that "The proposed risk-based capital ratio is designed to enhance sound capital management and help ensure that credit unions maintain adequate levels of loss-absorbing capital going forward...". I would argue that the present PCA standard did a very good job of helping the industry weather the economic storm of 2008, 2009 and 2010. While Achieva certainly experienced the earnings pressures of higher loan delinquencies, higher loan charge offs, depressed interest margins resulting from lower interest rates, corporate credit union capital investment impairment charges and stabilization fund assessments it was able to do so without ever being at risk of not meeting its well-capitalized capital PCA standard. Achieva was even able to maintain this capital classification after a merger of a distressed credit union roughly a third of its size. Considering the number of NPCU's when the recession hit, very few caused actual losses to the insurance fund during this time period. If the current capital system doesn't work why hasn't the industry had to pay an insurance premium since before the recession began? I would offer that this proposed standard is unnecessary or at the very least doesn't require a 10.5% RBC level to protect the fund.

5.) Section 104(a) – The proposal comments that the current method of computing RBNW is unique within the financial services industry and frequently results in confusion and incorrect analyses when attempting to compare credit union and bank risk weights for assets. I would suggest that, if true, this proposal won't eliminate that confusion or analytical problems. In fact, the proposal's capital classification levels, different risk weights incorporating interest rate, concentration, liquidity, and other risks will only further exacerbate the confusion. In addition, the different methodologies will put the credit union industry at a competitive disadvantage and have the potential to cause long-term economic harm to the industry.

6.) Section 104(b) – The proposed numerator has several shortcomings in both its additions and deductions:

A.) ALLL limited to 1.25% of risk assets – The proposal would adjust the level of the ALLL that can be included as a component of risk-based capital from the current RBNW factor of 1.50% of risk assets to 1.25%. The proposal's justification for making this adjustment is "...to provide an incentive for granting quality loans and recording loan losses in a timely manner." The need to generate income and capital already provides the incentive to make quality loans. No lender in any industry loans money out for the purpose of creating a charge off. Both GAAP and the external auditors work together to assist management with determining the proper funding level for the ALLL. Examination staffs also do an extensive analysis each exam to determine its proper funding level. Whether or not the conclusion reached by all of these parties results in an ALLL level that is above or below 1.25% is inconsequential. The proper level is what it is and should not be subject to some arbitrary adjustment factor to incent quality lending. Credit unions are in business to serve its members who all have their own credit risk profile. The "incentive" of each credit union is to serve its members in a prudent and profitable manner. If the NCUA is using the term "quality loans" to mean only A+ and A credit score borrowers, then there is going to be a rather significant percentage of our members who will not qualify for a loan. In addition, this "quality loan" statement completely ignores the risk based pricing models used by credit unions to compensate themselves for making higher risk loans. There should be no ALLL cap or at least no change from the current RBNW cap level.

B.) NCUSIF deposit – Under GAAP, the NCUSIF deposit is an asset to be carried on the balance sheet of a credit union. Under GAAP, the NCUSIF records the deposit on its balance sheet as a liability. If a credit union converts to a bank charter, the NCUSIF deposit is repaid to the converting credit union (as an asset and liability relationship between two entities should be handled). Further evidence of this asset/liability relationship is the fact that in April of this year, Achieva received a refund of its deposit that was in excess of its required amount. There is no justification for, in effect, writing off this asset by deducting it from capital. This deduction from capital in the proposal should be eliminated.

C.) Goodwill – For those credit unions, Achieva included, that merged with a distressed credit union without any regulatory assistance, since the NCUA would not provide assistance when asked, after December 31, 2008, goodwill was recorded as part of the merger accounting for the transaction. The proposal would require the goodwill recorded in this scenario to be deducted from capital before calculating a risk based capital ratio. In other words, the NCUA is going to penalize those credit unions that were willing to help the NCUA eliminate a financial risk to the insurance fund by merging with a distressed credit union without any assistance from the fund thereby helping to preserve the fund. The penalty consists of both increasing the surviving credit union's capital requirement and, at the same time, writing off an asset required by GAAP (goodwill) which GAAP says is still an asset and remains an asset until it becomes impaired (either partially or completely) under GAAP. I urge the NCUA to rethink the capital treatment of goodwill and let GAAP determine when and if goodwill needs to be written down/off. The result of this change will be to encourage future mergers of both healthy and distressed institutions whether credit unions or banks.

D.) Other intangible assets - For those credit unions, Achieva included, that merged with a distressed credit union after December 31, 2008, a core deposit intangible was recorded as part of the merger accounting for the transaction. The proposal would require the core deposit intangible recorded in this scenario to be deducted from capital before calculating a risk based capital ratio. In other words, the NCUA is going to penalize those credit unions that were willing to help the NCUA eliminate a financial risk to the insurance fund by merging with a distressed credit union thereby helping to preserve the fund. The penalty consists of both increasing the surviving credit union's capital requirement and, at the same time, accelerating the write off an asset required by GAAP (core deposit intangible) which GAAP says is an asset with a measurable life. Under GAAP, a core deposit intangible is amortized to expense over the estimated life of the core deposit relationships of the acquired deposit base. The estimated life is determined by a third party and is based on an analysis of the historical decay rate of the core deposits prior to the merger. The actual performance of these core deposit relationships are tested each year to determine if the original estimate is still holding true. If they are, then no further adjustment is necessary; if they are not, then an impairment adjustment is made to accelerate the amortization of the intangible. I urge the NCUA to rethink the capital treatment of the core deposit intangible and let GAAP determine how the core deposit intangible is to be written off in fairness to the surviving credit union and to encourage future mergers of both healthy and distressed institutions whether credit unions or banks.

7.) Section 104(c) – The proposed manner for dealing with certain perceived concentration risks is arbitrary, unnecessary and overly simplistic in its "one size fits all" approach.

A.) Member Business Loans ("MBL") – The credit union industry has been working diligently for quite a while now encouraging Congress to pass legislation which would increase the current MBL cap to a higher level in order for the industry to provide more financial support to small businesses. The NCUA has supported this effort and has additionally encouraged an increased limit as evidenced by its Low Income Credit Union designation effort which for such designated credit unions eliminates the lending cap completely. If ever there was a carrot and a stick approach to regulation this is it. How can the NCUA endorse credit union's increased MBL lending on the one hand and then penalize the industry with higher capital requirements if it actually does so? Why does the NCUA want to establish risk weights that are above those required of community banks thereby reducing NPCU competitiveness? Another case of extreme inconsistency that should be eliminated in the final regulation.

B.) Real Estate Loans – The proposal establishes a three tiered system of risk weights for first mortgage real estate loans based on arbitrary concentration levels versus the bank system of a single risk weight. Besides the competitive disadvantage that this puts the credit union industry in, this multi-tiered approach makes no attempt to assess the true risk in a real estate secured portfolio (the operative word here being ***secured***). Many things define the true risk in a secured portfolio other than loan concentrations. Some of these factors are: loan-to-value ratio; term of the loan; underwriting standards (including, but not limited to, A+ credit versus C or D credit); product type; fixed versus adjustable rate; and loan seasoning. I would argue that this one size fits all approach is both unnecessary and detrimental to serving a credit unions membership. I urge the NCUA to use the same risk weighting as is used for bank risk-based capital.

8.) Section 104(c)(1) – Table 6 – Risk Weight Categories – One global comment before I make specific comments on various assets within each risk category. Historically, with rare exceptions, credit union losses on the loan products it offers have been less than bank losses for the comparable product yet the proposal, through its various credit, concentration and interest rate weightings will require NPCU's to hold more capital for most loan products than is the case with banking requirements, once again, putting the credit union industry at a competitive disadvantage with the banking system.
I would suggest the following changes to the risk weight categories.
   A.) Category 1 – 0%
      (i.) Include overnight funds with the Federal Reserve Bank since no institution will ever lose any money in overnight funds with the Fed.
      (ii.) Include fully insured bank and credit union certificates of deposit since this is the same credit risk as a debt instrument unconditionally guaranteed by the NCUA or FDIC.
   B.) Category 2 – 20%
      (i.) Move residential mortgages guaranteed through the FHA or the VA to Category 1 since there is no risk of loss from an investment in this product.
      (ii.) Move the guaranteed portion of SBA loans to Category 1 since there is no risk of loss from an investment in this product.
   C.) Category 3 – 50% No suggested changes.
   D.) Category 4 – 75%
      (i.) I have a concern with the same risk weighting for secured and unsecured consumer loans. Either secured consumer loans should be Category 3 assets leaving unsecured as Category 4 or unsecured loans should be Category 5 assets leaving secured as Category 4. There is a vast difference between loss rates on secured versus unsecured loans.
   E.) Category 5 – 100%
      (i.) I would suggest the risk weight for loans held for sale should be no higher than the risk weight for the product type being held for sale. Generally loans held for sale were originated for sale and are on the books only a short period of time before they are delivered to the buyer and the seller is paid off.
   F.) Category 6 – 125%
      (i.) While recent experience reflects higher than average loss rates on second mortgages and HELOC's, this is primarily the result of the lending done during the housing bubble and subsequent real estate correction that has taken place. Certainly a very unique economic phenomenon like none experienced by this country previously. It would appear the NCUA is taking the position that this unique scenario is now the new norm. I strongly disagree with this outlook. While losses on individual loans the last few years have ranged from cents on

the dollar to 100%, not every loan made created a charge-off. Far fewer loans experienced a write-off than paid as agreed but the proposal treats all loans in the same, punitive way. Since these loans are secured when they are made, the risk weighting should be no more than 75% in order to put NPCU's in a better position to serve their members looking for this product. This risk level both recognizes that these loans possess more risk than 1st mortgages but that they also have collateral securing the loan.

The proposal states that if the credit union has both the senior and junior lien on a property, then both the first and second would qualify for the 50% risk weighting which supports my position above. However, the proposal also states that the use of the lower risk weighting just mentioned will only be allowable if the loan is not restructured or modified. Loan restructurings and modifications occur for two reasons: 1.) the loan is performing, the borrower is strong, market conditions have changed and the borrower requests its credit union to recognize these factors and modify a loan as opposed to having to go through a refinance; 2.) the loan is not performing, the borrower is struggling, market conditions have deteriorated. In this second scenario, this provision in the proposal could discourage a credit union from working to help its member through these difficulties with a restructuring/modification. This is exactly the opposite of what the NCUA recommended just a couple of short years ago. Creating this bifurcated approach should be eliminated and all relationships where a credit union holds both the first and second on a property should qualify for a 50% risk weighting.

G.) Category 7 – 150%

(i.) As mentioned earlier in this comment letter, there are many inconsistencies in this proposal. The provision relating to the risk weighting for investments is one of these inconsistencies. One of the investment types that is impacted by the inconsistency of the proposal is fixed rate 1st mortgage loans collateralizing agency mortgage-backed securities or collateralized mortgage-backed securities. The proposal contains three risk buckets for dealing with this asset. If fixed rate 1st mortgages are collateral for a GNMA security, then the risk-weighting is 0% (recognizing the lack of credit risk but ignoring the potential interest-rate risk); if these mortgages are in the credit union's loan portfolio, then the risk-weighting starts at 50% and goes up depending on concentration levels (recognizing that these assets possess a certain amount of credit risk, ignoring the fact that these assets have various levels of interest-rate risk and adding concentration risk as a new criteria for determining the risk weighting); and if these mortgages are collateral for agency securities, then the risk weighting could be as high as 150% (ignoring the implicit lack of credit risk [no security holder has ever lost a dollar invested in a FNMA or FHLMC security] and focusing almost entirely on the potential interest-rate risk). This weighting is going to negatively impact the industry's investment strategy which is going to negatively impact earnings. This weighting factor is also significantly higher than the bank factor for the same asset and should be revised to mirror the bank standard.

(ii.) Including delinquent vehicle loans and leases in this risk category ignores the fact that there is collateral securing these loans which has value. While it's a fact that the collateral value may be less than the loan amount, the collateral does have some value. While it's a fact that most vehicle loans once they are 90-days past due go on to default and the collateral is repossessed, it's also a fact that the losses are never more than 100% of the outstanding balance of the loan and in all cases are less than 100%. For these reasons I would suggest the more appropriate weighting is 100%.

(iii.) Proposing to place MBL's greater than 15% of assets (up to 25% of assets) in this category is a major step toward capping credit union MBL lending at 15% of assets and counter-productive to industry efforts, which have been supported by the NCUA, to get Congress to increase the current 12.25% limit. This aspect of the proposal is also counterproductive to the NCUA's complete waiver of any MBL cap for Low Income Credit Unions which encourages credit unions who meet the criteria for this designation to put more MBL's on their books. I also find it difficult to understand what the NCUA is trying to protect the insurance fund from with this provision since MBL's have not been a significant source of loss to the credit union industry overall. To support this proposal, the NCUA is citing GAO statistics on bank failures to support the concentration formula as opposed to its own data. From my experience, it's not concentration of MBL's that has resulted in bank failures it's: poor underwriting; poor loan structures; speculative construction; use of interest reserves; non-recourse lending; interest only loans; and ADC loans to name a few things.

The impact of this arbitrary concentration treatment will be as follows:

a.) Limit the growth of business members;
b.) Reduce the supply of credit to small businesses;
c.) Reduce credit union profitability;
d.) Reduce credit union growth in capital;
e.) Negatively impact economic growth;
f.) Place credit unions at a competitive disadvantage with banks for business loans.

(iv.) This category has a second concentration provision for other real estate secured loans (second mortgages and HELOC's). Please see my comments above on Category 6 as my comments on this provision are the same.

H.) Category 8 – 200%

(i.) It would appear from this provision that the NCUA desires to eliminate corporate credit unions as a segment of the credit union industry. The risk weighting for corporate perpetual capital, the only form of qualifying capital that a corporate can have, is so punitive to NPCU's that it completely disincentivises NPCU's from providing any additional capital to the corporate group. The cost to provide capital to corporates will lead NPCU's to seek out alternative, much less costly, sources for the products and services that corporates provide. The only way not to have this effect is to reduce the risk weighting to 100%.

(ii.) Please see my comments above on Category 7(iii.) as my comments to this provision are the same.

I.) Category 9 – 250%

(i.) The risk weighting proposed for CUSO investments and the resulting level of capital required to support an investment creates an unrealistically high return on investment expectation for the investment. If CUSO's are intended to enable a credit union to offer a product or service that cannot be offered directly by the credit union; if CUSO investments generate earnings that the credit union could not generate without the CUSO; if a CUSO is created through the collaboration of multiple credit unions; then why does the proposal penalize these investments. If the NCUA has issues with certain CUSO's, then deal with the specific CUSO's through your supervision authorities as opposed to penalizing every investment. CUSO investment should be a 100% risk weighting.

(ii.) Placing loan servicing rights in this category will discourage credit unions from continuing to sell loans servicing retained which, if the result, is a poor business position to put the industry in. First of all, servicing assets are carried at the lower of cost or market. Credit union auditors require an annual third party valuation of the asset's carrying value. While the valuation may conclude that the current market value is less than the book value the impact on earnings is to write the asset down to its market value, not write it entirely off.
The impairment that the proposal is attempting to address comes from the refinancing of high rate loans in a low rate environment. The value of servicing assets created over the last five years can only decrease if rates decrease. That is hardly the rate scenario to be expected today. As a result, servicing values are likely to increase from current levels. Longer term, a servicing asset is created over various rate environments somewhat mitigating the negative impact of rate changes on the asset valuation. Second of all, the generation of servicing assets comes from the sale of loans where the servicing of the asset is retained by the selling credit union. Generally the loans that are sold reduce interest-rate risk (long-term fixed-rate loans) or concentration risk (vehicle, mortgage, MBL and credit card loans). Why does the NCUA want to penalize these actions? Third of all, when a loan is sold servicing retained the selling credit union is maintaining the relationship with the member which obviously is a positive. Lastly, this is a higher risk weighting than banks have thereby creating another competitive disadvantage. For all of the above reasons the risk weighting should be the same as other assets (100%).

J.) Category 10 – 1,250%

(i.) The effective capital level for this category is 100% of the amount invested. This is a bit extreme. While I understand the NCUA's concern for a credit union investing in a security that it doesn't understand, what are the criteria for making the determination that a credit union doesn't have the level of understanding that it should? If the determination is being made through the examination process, will there be an appeals process? What if the credit union has a reasonable understanding but is not deemed to be an expert? This provision is a pass or fail approach only. I would suggest more thought needs to be put into this category. This is more of a supervision issue than a capital issue. The investment does, in all likelihood, have a market and a market value and, more than likely, is being carried on the credit union's books at its market value.

9.) Section 702.108 – This section of the proposal eliminates the risk mitigation credit of the current RBNW requirement for two reasons: 1.) it has had minimal use in the past; 2.) it would require a substantial commitment of NCUA and credit union resources. Neither justification seems valid when considering the magnitude of the increase in the level of capital required under RBC versus the level currently required under RBNW. Eliminating the credit provides a disincentive for mitigating interest-rate and credit risk and the NCUA should be doing exactly the opposite. If the NCUA is concerned about the resources needed to evaluate individual credit union situations, then it should establish specific criteria in the RBC standard.

Thank you for this opportunity to comment on the proposed Risk Based Capital regulation. I sincerely hope that the NCUA is committed to listening to the concerns expressed by the industry through this comment process and is willing to make substantive revisions to the proposal for the sake of the long-term viability of the industry. I would also hope that whatever changes are made by the NCUA to this proposal are shown to the industry before the regulation is finalized and that the industry will be provided with another opportunity to comment.

Sincerely,

Dennis B. Holthaus

Dennis B. Holthaus
Senior Vice President/Chief Financial Officer
Achieva Credit Union

Cc: U. S. Congressman Gus Bilirakis
U. S. Congressman Dennis A. Ross
U. S. Senator Marco Rubio
U. S. Senator Bill Nelson
Bruce Rica, Chief, Bureau of Credit Unions
Bill Hampel, Interim President, Credit Union National Association
William G. Berg, Vice President, League of Southeastern Credit Unions