Nebraska Credit Union League

May 2, 2014

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 55314-3428

Sent electronically to: regcomments@ncua.gov
Re: RIN 3133-AD77

Dear Mr. Poliquin:

The Nebraska Credit Union League Board of Directors would like to offer the following comment letter on the recent NCUA proposed Risk Based Capital rule. While the Board recognizes the need for a well-balanced and credit union specific set of capital standards as an alternative to the current net worth standard established by Congress in 1998 that sets 7% net worth as the standard to be well capitalized for all credit unions regardless of their individual risk policies.

The Board supports a rule that recognizes that all assets are not of equal risk and that capital requirements should be based on balance sheet risk and not a "one size fits all". Breakdown of assets by risk category is a sound capital requirement policy and credit unions posing a greater risk to the share insurance fund should maintain a greater capital buffer because when they do, all credit unions benefit.

The devil is in the details, however, and as currently proposed we have concerns the Risk based Capital rule could produce a less than workable capital standard putting the credit union charter at a competitive disadvantage. We would like to respectfully address the following concerns and offer possible improvements to the regulation.

In Nebraska, there are 21 federally-insured credit unions with assets over $40 million. And while we understand that the Risk-Based Capital proposal applies only to credit unions with $50 million or more in assets we feel that those credit unions between $40 and $50 million are likely to grow above the $50 million mark in the near future.

Under the current proposal none of the 21 federally –insured credit unions would enjoy a greater cushion above the well-capitalized threshold. One would fall from well capitalized in the current system to adequately capitalized in the proposed system. Another Ag-based credit union chartered specifically for the purpose of making agricultural-related loans would be penalized without merit for concentration risk and fall from well capitalized in the current system to under-capitalized in the proposed system.

In fact all 21 credit unions would see their capital cushion shrink by a combined total of $20 million, if the proposal were to pass without any revisions. Currently these credit unions have a cushion over the well capitalized threshold equal to 304 basis points on total assets. Under the proposal the cushion over well capitalized would decline for these credit unions to 241 basis points. This represents a negative 63 basis point change in the capital cushion over well capitalized, resulting in a change in the cushion over well capitalized equal to 55 percent of the ROA earned by these credit unions in 2013.

The Board is extremely concerned that by diminishing the capital cushion for credit unions will severely inhibit their ability to plan strategically. Meaning that loans may not be made, branches may not be built or services may not be added or improved.

To help mitigate the impact of the proposal and better preserve an appropriate capital cushion for Nebraska credit unions we would respectfully offer the following five suggestions for consideration regarding the proposed Risk Based Capital rule.

- Reduce the risk-based capital ratio to be well capitalized from 10.5% to 9%. The Board feels strongly that a 200 basis point cushion above the already high 7% net worth ratio would be sufficient. Exempt credit unions with a history of making business loans, i.e., Ag-based credit unions as per 1998 statute from concentration risk multipliers and leave the risk weight at 100% for all business loans in these credit unions.
- Incorporate credit risk performance standards in member business loans and mortgages by considering a 50 basis point reduction in each concentration category if a credit union has a consistent charge off rate below 2%.
- Remove the ability of examiners to subjectively increase credit unions required risk based capital ratio beyond 10.5%. It would be unwise to promote an environment where Regional Directors or their reports could set their own higher standards for capital in individual credit unions. This could lead to an attempt by those with ambitions within the Agency to appear "tougher" than their counterparts by requiring higher standards. This type of gamesmanship can be avoided by eliminating the authority to arbitrarily set higher subjective standard for one credit union. It is imperative that credit unions know exactly what their regulatory capital expectations so they are able to manage to a specific requirement.
- Incorporate a supplemental capital provision into the regulation and resubmit the proposal for further public comment. Supplemental capital from subordinate debt (capital accounts to either members, non-members or both) can legally count toward a credit union's regulatory risk based capital ratio, even though it cannot be counted for statutory PCA net worth ratio.
- Delay the effective date for five full years from the approval date for credit unions to prepare and adjust their balance sheets effectively and with strategic planning considerations taken into account.

When finalizing a Risk-Based Capital Rule it is imperative that NCUA keep in mind the fact that the only current source of capital for credit unions is net income, and that requiring capital that is excessive and/or arbitrary severely limits the opportunity for some credit unions to generate income, as well as decreasing the value of membership for its members who utilize the loans being limited. This, in turn has the effect of slowing down the economy, as loans become more difficult for members to obtain. And since most credit unions would have a higher risk-based capital ratio under the Basel system for community banks, NCUA should consider capital standards that are the lower of 7% or the risk based capital requirement.

In closing, the Board appreciates your willingness to allow us to comment on this important regulatory proposal. We respectfully and strongly encourage you to consider possible improvements to the Risk Based Capital rule in accordance with our recommendations included in this comment letter. The strength, safety and long-term viability of the credit union industry will be impacted by the capital structure under which credit unions operate in the years and decades to come. It is crucial that any changes to the credit union capital system be appropriate to the risk and balanced with the ability to effectively manage that risk.

Respectfully Submitted,

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Cc: The Honorable Deb Fischer
The Honorable Mike Johanns
The Honorable Jeff Fortenberry
The Honorable Lee Terry
The Honorable Adrian Smith