From:	Mark Richter
To:	_Regulatory Comments
Subject:	Mark Richter - Comments on Proposed Rule: PCA - Risk Based Capital
Date:	Wednesday, May 21, 2014 10:00:16 AM

Gerald Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22315-3428

RE: NCUA proposed risk-based capital requirements/ RIN 3133-AD77

Dear Mr. Poliquin,

Thank you for considering my serious concerns and feedback regarding the NCUA's risk-based capital (RBC) proposal. As CEO for First United Credit Union (Grandville, Mich.), a $30-million asset/5,000-member CU, there are several points that create serious questions in my mind and need further examination:

Capitalization levels: RBC would require CUs to hold capital at 8% of risk-based assets in order to be considered adequately-capitalized and 10.5% to be considered well-capitalized. That is in addition to the 6% and 7% leverage ratio requirements to be adequately and well-capitalized. This increase seems unfair and exorbitant.

Need for supplemental capital options: The NCUA's efforts to implement supplemental capital options should be accelerated for all CUs in conjunction with the RBC implementation. If supplemental capital options are available, CUs, who will no longer be considered well-capitalized, will be given an important tool to assist in managing the new risk-based capital standards.

Increased examiner subjectivity: RBC, if implemented in its current form, would allow for *subjectivity* by a regulator to require additional risk-based capital above what is proposed in the regulation. Unfair, arbitrary assessments could be made.

Inconsistent definition of "complex" CU: The FCUA currently considers a "complex" CU based on the portfolios of assets and liabilities of CUs. The proposal would implement *an asset threshold for CUs over $50 million*. This designation does not meet the requirements defined under the FCUA as complex.

Less Support for Smaller CUs: If adopted as proposed, the rule will produce a *disproportionate decline* in the monetary and other support larger CUs have historically provided to their smaller counterparts. This will put additional strain on the finances and operations of many of the nation's smaller CUs and essentially magnify the decline in CU service to the nation's consumers.

Negative Impact on Growth and Viability for Smaller CUs: Many hundreds of healthy small CUs will soon be larger - growing across the arbitrary '$50 million threshold' that automatically makes them complex under the proposal. Inflation alone will cause a significant number to cross the threshold. Indeed, using historical average inflation rates – a $40 million CU becomes $50 million in roughly ten years. **This will expose hundreds of small CUs to the proposal's unreasonable risk weighting system and defective interest rate risk scheme, and will seriously inhibit their growth, vitality, and viability.**

Negative impact on low-income CUs: RBC could negatively impact members (and their ability to obtain financing) served by low-income CUs.

Inconsistent to BASEL III risk ratings: The risk weightings assigned to various assets and securities under RBC are supposed to align CUs with Corporate CUs and BASEL III for community banks. The risk weightings, in the current proposal, *deter greatly* from those of BASEL III.

Proposed risk weights do not reflect marketplace realities: The current weights bear no relationship to actual CU losses over time - both from the standpoint of losses relative to those in the banking sector and the standpoint of comparative losses within credit union portfolios.

Short timeline for implementation: The timeline of 12-18 months for implementation is too short. Banks were given a much longer period to comply with BASEL III, providing for a transitional period out to 2019.

Historical perspective does not support RBC: The 7% net worth requirement under the existing rule was sufficient to sustain the CU industry through the recent financial crisis, and CUs did not require a taxpayer bailout.

<u>Other factors as they specifically relate to Michigan:</u>

In Michigan, there are 159 federally-insured CUs with assets over $40 million. Of these CUs:*

- 7 would fall from well capitalized in the current system to adequately-capitalized in the proposed system.
- 0 would fall from well-capitalized in the current system to under-capitalized in the proposed system.
- Only 4 would enjoy a greater cushion above the well-capitalized threshold under the NCUA proposal.

The 159 federally-insured CUs with assets over $40 million in Michigan would see their cushions over well-capitalized shrink by a combined total of $0.3 billion if the proposal were in effect.

- These CUs now have a cushion over well-capitalized equal to 431 basis points on total assets.
- Under the proposal, the cushion over well-capitalized would decline to 367 basis points on total assets. This represents a -63 basis point change in the cushion over well capitalized.
- As a point of reference - the change in the cushion over well capitalized is equal to 86 percent of the ROA earned by these CUs in 2013.

A total of 110 CUs - 69% of the state's total - would see their cushions over well-capitalized shrink if the proposal were in effect.

- The median increase in capital needed to maintain the current cushion above well-capitalized is 60 basis points on assets for these CUs.

- In all, 29 CUs would experience a reduction in the cushion above well-capitalized of at least 100 basis points on assets.

When viewing the proposal on the surface, the concept of risk-based capital requirements seems to make sense. Requiring CUs with seemingly risky or more complex operations to have higher capital levels seems rational. **Unfortunately, the way the bill is structured, more problems arise than would be solved.** The RBC proposal does not seem to be structured fairly. So after viewing the impact on Michigan CUs, I have even more serious concern over the RBC proposal.

Also, may I respectfully ask: Is the proposal necessary? It seems some of the definitions provided by the NCUA do not correspond with the reasoning for the proposal. For example, can the definition of "complex CU" be only defined by asset size? Additionally, there may not be a correlation between proposed risk requirements to *actual levels of risk*. These assertions are why I believe the RBC proposal is flawed.

As stated above, the various elements of the proposal would dramatically impact CUs on a variety of levels. If adopted most CUs would need to increase the amount of capital held in order to be well-capitalized and the burdensome risk weightings would serve as *disincentive* to invest in CUSOs, member business loans, mortgage loans, as well as long term investments.

Also, it's proven that risk-based capital has not worked historically with banks and that banks are moving away from risk-based capital structures. Banks have been subject to RBC thresholds for approximately 25 years. This RBC structure did not help banks during the 2008 recession. CUs did, however, manage much better throughout the recession, and continued to provide lending when their banking counterparts could not.

I would ask the NCUA to keep our unique differences strong and not propose even more stringent RBC requirements than banks. If implemented, it could potentially encourage some CUs to convert their charters to banks. There is also no feasible way to quantify in a single, risk-based system the many variables or specifics that impact each CU's individual risk.

First United CU supports the overall objective of ensuring CUs are well-capitalized. However, we also believe the vast majority of CUs are well- or adequately-capitalized. The RBC proposal is unnecessary and places unfair regulatory burden on all CUs, and will negatively impact our ability to grow and capture market share.

Even though we are currently under the $50-million threshold, it won't be long until we are at that level. When we reach $50-million in assets, this proposal will negatively impact our ability to grow and serve our members.

More conclusive research and data is required, and the CU industry as a whole must be given the opportunity to voice its concern and participate in a discussion – especially with such a momentous decision as RBC and its impact on our growth and ability to serve members.

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