

**From:** [van der Have, Vickie](#)  
**To:** [Regulatory Comments](#)  
**Subject:** NCUA Risk-Based Capital Proposed Reg  
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National Credit Union Administration  
Gerald Poliquin, Secretary of the Board  
1775 Duke Street  
Alexandria, VA 22314-3428

Re: Comments on Proposed Risk Based Capital Rule

Dear Mr. Poliquin,

Thank you for the opportunity to comment on the proposed risk-based net worth rule. I am the President and CEO of Weber State Federal Credit Union in Ogden, Utah, with \$98 million in assets, and 9,220 members.

I have read the 198 page proposed risk based capital rule and after doing so, I have determined that I am not in support NCUA's implementation of what appears to be a flawed concept. The current framework for determining capital requirements is adequate when considered alongside the many other rules and regulations that NCUA already administers to address risk in credit unions.

The summary of the proposal indicates that part of its purpose is to address weaknesses in the existing regulatory capital framework, yet I am uncertain what weakness the proposed regulation may be trying to address, as the problems that arose in the recent financial crisis (primarily concentration risk) have already been dealt with through other remedies. Credit, liquidity, interest rate, and other types of risk are also already addressed by NCUA elsewhere. The proposed risk-based capital rule, as an over-arching, broad tool meant to address weaknesses in regulatory framework, only creates redundancy.

That redundancy would increase capital requirements for many credit unions. My credit union prefers to keep a buffer between our current capital requirement, and the minimum requirement to be well-capitalized. Under the risk-based rule, that buffer will shrink, and our credit union will be required to retain additional capital—to the tune of 79 basis points—to replenish the buffer at a cost to our members. Our ability to grow and provide better services and delivery channels to our members would become even more difficult in this environment.

Further, risk is simply too much of a moving target, and tomorrow's threats may not be yesterday's. For this reason, the way the proposal addresses so many types of risk probably cannot be effective. It would be better to address individual types of risk in individual rules and regulations in a more surgical manner, as NCUA has done previously. Implementing this broad rule on a healthy credit union industry would be like a doctor treating a healthy person with chemo therapy—just in case there may be cancer in the future.

If the law requires that the capital rule be a broad rule enveloping many types of risk, at the very

least the other rules should be eliminated to reduce redundancy. Ideally, however, the law would be changed to account for the other rules. This may not be impossible to achieve; Congress might listen if NCUA lobbied to have the law changed.

Another reason I do not support the rule is because of the provision that would allow examiners to set higher capital requirements for individual credit unions. This simply has the possibility of introducing human error and bias into the single most important ratio affecting credit unions. The provision should be entirely struck from the proposal, as it negates everything else in the proposed rule. I fail to even see a justifiable reason for the authority to be there if the rest of the rule was adequate—and the rest of the rule is probably overkill, as I've indicated previously. The sheer fact that the "fail safe" aspect was introduced is a key signal to me that the proposal is flawed and may not work, and more precise rules may work better.

I do not believe the provision should be left in, but if it is, there should be a well-documented and distributed set of guidelines for determining when additional capital might be required. A credit union should be able to look at that list of guidelines and reasonably determine if NCUA might require more capital at the credit union. Without such a set of guidelines, the provision is a likely facilitator of error.

In summary, the proposal is not necessary due to the many rules and regulations already in place. If the law says the risk-based capital should be changed, then perhaps the law should be changed, or other rules that are not required by law should be eliminated. Also, the provision allowing NCUA to require more capital on a case-by-case basis undermines the entire rule, and has the potential to cause many problems for credit unions and the NCUA. It should be entirely removed from the proposed rule.

Thank you for your work on behalf of credit unions and America's consumers, and for the opportunity to comment on this rule.

Sincerely,

Vickie van der Have

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