CFCU
Community
Credit Union
1030 Craft Road
Ithaca, New York 14850-1016

May 23, 2014

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

RE: Comments on Proposed Rule – Prompt Corrective Action; Risk Based Capital
12 CFR Parts 700, 701, 702, 703, 713, 723 and 747

Dear Mr. Poliquin:

I am writing on behalf of CFCU Community Credit Union ("CFCU"), a New York State chartered community credit union with $880 million in assets and serving more than 60,000 members in New York's Finger Lakes region. CFCU appreciates the opportunity to provide our comments to the National Credit Union Administration (NCUA) on the proposed rule regarding Prompt Corrective Action and Risk-Based Capital. Notably, CFCU would not be significantly impacted in the immediate term by the proposed regulation; your calculator indicates that we would have a net worth of 12.72% and a RBC Ratio of 20.40% under the proposed regulations.

With that said, and while CFCU supports a more sophisticated risk based capital framework, our management team and board do not support this proposed regulation as currently written. Below is a summary of our concerns about the proposed regulations, followed by a more detailed analysis of the weaknesses that we have observed in the proposal:

- We are concerned that NCUA has not adequately justified the need for this rule;
- It is unclear to us that your Agency has the authority to implement these regulations;
- The proposed regulations would hurt the credit union industry and credit union members by stifling growth and taking a "one size fits all" approach that does not consider the diversity of credit union assets and the idea that every credit union has a unique membership composition;
- The proposed regulations primarily consider asset concentration risk without regard to credit risk;

- The proposed regulations arbitrarily imply that certain assets are inherently risky by automatically higher risk weights to those assets;
- The proposed regulations are not being proposed in conjunction with a plan to provide a method for allowing credit unions to use supplemental capital toward satisfying the proposed risk-based capital requirements; and
- The regulations would provide too much discretion to regulatory examiners by granting examiners the ability to subjectively require a credit union to reserve a higher level of risk capital.

We believe it is important that NCUA clearly explain the need for this rule and specify the source of its authority to implement these changes. Over the past 7 years, the credit union industry was very successful in weathering a challenging economic environment, including but not limited to a U.S. housing finance crisis, turmoil in both domestic and global financial markets, and the worst economic recession since the Great Depression. Given these successes, why is the NCUA now focused on implementing a more stringent risk-based capital system for credit unions? Moreover, it is not clear from the proposed regulations, nor is it clear from any statutory authority granted to NCUA, that NCUA has the appropriate authority to create, impose and enforce a new risk-based capital framework upon the credit union industry. Although it has been stated that just under 200 credit unions would be directly impacted by this rule, we believe that there are many credit unions that will fall just above the well-capitalized ratio. This will require those credit unions to review any expansion to their product and service lines to determine their ongoing feasibility given the restraints this rule may place on them. We will not support any proposed regulation that would stifle safe and sound credit union growth and service to membership. However, we do support proposals that allow credit unions to grow and expand safely, and that provide the least intrusive method of ensuring the safety and soundness of our industry. Unfortunately, the proposed regulations as written are highly intrusive to the credit union industry's well-established and proven asset-liability management methods. If implemented as proposed, these regulations would clearly limit credit union growth in a way that would hurt our industry and credit union members across the nation.

Another concern we have is that the proposal assigns risk weights based mostly on asset concentration risk and does not factor credit risk in those risk-weightings. Credit unions have notoriously made strong loans to members and that factor must be taken into consideration when assigning the risk-weights.

In addition to the above, the proposal's risk weightings for corporate credit union perpetual capital, CUSO investments and investments of 5-10 and over 10 years in maturity assume, incorrectly, that they are inherently more risky. We recommend the Agency review the risk-weights assigned to these categories and determine if the risk-weighting is supported by the actual risk of these assets.

In order for credit unions to be able to meet the new capital standards we must have access to supplemental capital. Without access to supplemental capital, it will be difficult for many credit unions to have appropriate levels of risk capital. By not addressing access to supplemental capital, the proposed regulations would further disadvantage credit unions.

Finally, we are very concerned with the section of the proposal that would give examiners the ability to require a higher level of risk capital based strictly on examiner judgment. It is inappropriate for credit unions to have to have a higher risk based net worth position beyond the requirements in the regulations. Giving examiners the authority to circumvent the regulation would set a dangerous precedent and the Agency should remove this from any final rule.

In sum, CFCU supports NCUA's review of risk based net worth requirements for credit unions. However, the regulations as proposed will not create such a system. We ask the NCUA to reconsider its approach and completely overhaul the proposal, taking into account the concerns expressed above, and re-submit a new set of proposed regulations for industry comment and review.

Thank you again for the opportunity to comment on the proposed rule.

Sincerely,

Lisa Whitaker
President and Chief Executive Officer
CFCU Community Credit Union

CC: William Mellin, President and CEO, Credit Union Association of NY