Kansas Credit Union Association

May 23, 2014

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

**VIA EMAIL: regcomments@ncua.gov**

RE: Comments on NCUA Proposed Rule - Prompt Corrective Action: Risk-Based Capital

Dear Mr. Poliquin:

On behalf of the 90 members of the Kansas Credit Union Association [KCUA], the trade association for credit unions in Kansas, I write to express concern with the National Credit Union Administration's [NCUA] risk-based capital proposal. Established in 1934, KCUA assists member credit unions in meeting the needs of its 640,000 members and potential members.

Twenty-six Kansas credit unions have assets in excess of $49 million and, therefore, the potential to be greatly affected by the NCUA proposal. Based upon current projections, 85% of those credit unions would see their cushion over well-capitalized shrink. While KCUA supports risk-based capital reform, a more appropriate approach would address basic leverage ratio requirements, access to supplemental capital and more reasonable risk weights. The complexity and the level of impact created by this proposal warrants considerable time for analysis and dialogue, which we feel has not been adequately provided. I would like to address four issues of importance to our members: agricultural lending, risk weight calibration, the authority of examiners to raise capital requirements on a case-by-case basis, and the implementation timeline.

<u>Agricultural Lending</u>

Kansas is an agricultural state and many Kansas credit unions serve their farming communities by providing safe and affordable loans. The risk-based capital proposal will adversely affect these credit union members. For example, one Kansas credit union would have its well-capitalized buffer cut by half. If the Basel III risk weights were applied, as they are to banks, the buffer would remain steady.

With this risk-based capital proposal, the NCUA seeks to penalize the very ability that makes the credit union a viable financial institution: decades of profitable and successful agricultural loans to the small Kansas farmer. These credit unions are a vital asset to the Kansas economy and it is often banks that refer agricultural loans to the credit union down the street precisely because of this expertise.

Risk Weight Calibration

Under the current standards, Kansas credit unions with assets in excess of $49 million far exceed the required 7% net worth ratio. With the flip of an unnecessary switch, the well-capitalized buffers are gone and their capitalization status is more tenuous. We would question the need, and the evidence, for proposing more stringent standards than the Basel III standards imposed on banks providing the same type of loans.

In its proposal comments, the NCUA states "…the FCUA requires the risk-based measure to include *all* materials risks,…" [emphasis added]. However, in §1790d(d)(2), the actual "standard" for the NCUA to use is "*any* material risks…" [emphasis added]. It may be argued that NCUA has overstepped its authority by unreasonably expanding its risk review to include nine separate risk categories.

Individual Examiner Authority

Proposed §702.105(b) would allow the NCUA authority to impose minimum capital levels higher than the standard risk-based capital requirements on a case-by-case basis. The proposal includes an extensive list of options available to cause the invocation of this power. The concern of Kansas credit unions is the statement that this "…cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria, and that the decision is necessarily based, in part, on a *subjective* judgment grounded in agency expertise." [Emphasis added.]

This approach invests examiners with a tremendous amount of power, including the ability to impede a credit union's efforts to serve the best interests of its members or, at its extreme, the inability to continue as a functioning financial institution. The mere threat of retribution would inhibit credit union staff from engaging in professional and educational discussions with NCUA examiners over disputed recommendations and/or exam findings.

Credit unions should feel free to use their expertise, e.g., with concentration risk, or innovative methods to serve their members and maintain the safety and soundness of their institution, without the threat of individual increased minimum capital requirements being imposed.

Implementation Timeline

Notwithstanding the above concerns, compliance with such a drastic change within the suggested implementation period of eighteen [18] months will be extremely problematic for all credit unions. This abbreviated time does not comply with the spirit of §1709d(c)(2)(C) which requires NCUA to give credit unions "…a reasonable period of time to meet the increased ratio."

Thank you for the opportunity to voice the concerns of Kansas credit unions to the proposal.

Sincerely,

Marla S. Marsh
President/CEO