ACTORS FEDERAL CREDIT UNION

May 22, 2014

Secretary of the Board Poliquin
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Proposed Risk-Based Capital Rule

Dear Secretary Poliquin,

Actors Federal Credit Union has concerns about the proposed risk based capital rule and we appreciate the opportunity to share them. Actors FCU was founded in 1962. We serve 23,500 members and currently have $196,118,288 in assets. Our members are located all across the United States and we have branch offices in New York City, Chicago and Los Angeles. Our current net worth ratio is 8.37%. Under the new RBC measures our ratio would be 16.45% and we would maintain our well-capitalized rating. We recognize the benefits of a risk based capital model and we believe that this draft of the new rule is a step in the right direction. That said, we believe there are some elements in the rule as it is currently written that would prove detrimental to credit unions and the credit union business model. Please consider our positions on these issues as you prepare for the next steps in instituting the Risk Based Capital rule.

Our primary concern with the new rule is the proposal to raise individual minimum capital requirements based on subjective assessments by individual examiners. The wording in section 702.105 lays a vague foundation. As we understand this section, the NCUA would have the authority to raise capital requirements based on an individual regulator's assessment of, not only a credit union's "activities and risk profile", but also the regulator's assessment of general "prospective economic conditions." We see a similar statement in 702.105(b), where the rule discusses the NCUA's "determination that the credit union's capital is **or may become** inadequate in view of the credit union's circumstances." This puts individual regulators in the position of passing subjective and ***predictive*** judgment, not only on individual credit union's circumstances, but also on the state and direction of "prospective economic conditions". When it comes to predicting the future movement of business and the economy, contradicting opinions are ubiquitous. The most respected economists, pundits, and financial scholars argue publicly about these issues every day.

Credit unions are already required to create shock test scenarios specifically to test their capability to hold up under major economic duress. Why, if the shock test scenarios show strong financials, is this section of the rule necessary? It seems likely that the foundation of this new risk based capital model would be undermined by the inclusion of subjective individual minimum capital requirements. We believe it changes the very nature of the relationship between regulators and credit unions. It is a decisive step towards taking management decisions away from credit union boards and executives, and placing it in the hands of individual examiners. In the end, this would be detrimental to the credit union system and should be removed from further drafts.

Our next concern is the method proposed for assigning specific risk weights to various products and activities. The process of analyzing risk across a spectrum of various financial instruments is complex and ever changing. While the guidelines for weighting the individual business areas are helpful as guidelines, the proposed usage seems a rather blunt instrument for managing a substantially nuanced undertaking. It seems that some of the most obvious and useful risk management tools are left out of this equation; experience and resources. Returning to the individual minimum capital requirements, the rule specifically notes that risk "cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria. The decision is necessarily based in part on subjective judgment grounded in agency expertise." The rule proposes to use subjective judgment based in expertise to mandate a higher level of individual capital, but it takes the same tool away from credit unions as it pertains to their individual business specialties. The new RBC rule should include a mechanism to incorporate the specialization and history of credit unions that dedicate a large percentage of their resources to specific lines of business, and have displayed a high level of competence in the management of these areas.

In the proposed rule member business loans are categorized in relation to what percentage of assets they make up, but no consideration is given to the type of business loans. Are they collateralized or not? Does this type of loan have a strong history of re-payment or a history of default? What is the average LTV ratio? What is the average borrower's credit score? MBL's do not reflect a universal risk level and it is not the size in relation to assets alone that determines the risk of a loan portfolio. Empirical data is available to help determine the inherent risk of the loan and should be utilized in assessing the risk weighting.

Also of note is the 200% risk weighting given to corporate paid-in-capital. This is an investment that credit unions are required to make if they wish to take advantage of cost-effective services provided by the corporates. Thanks to NCUA oversight and supervision, the corporate credit union structure is now less risky than it was prior to the financial crisis. We need only look as far as current predicted assessments to support this idea. Corporate paid-in capital should be assigned a risk weighting of 125% at the most.

Another section we would like to see revised is the weighting for CUSO investments. We recommend tiered weighting criteria, based on the purpose and type of the CUSO investment. This is not a one size fits all business line and it should not be treated as such.

We question why the proposed risk ratings are so much more restrictive than those in place for other community financial institutions. This is especially curious when one considers that delinquency rates at credit unions are lower than delinquency rates at banks, and that credit unions fared far better during the financial crisis. We understand and appreciate the need to implement capital requirements based on diverse criteria, but the rule as it stands lacks a realistically nuanced approach to many of the financial instruments that it seeks to catalogue. We are concerned that this would not only put credit unions at an unfair disadvantage, but might also incentivize many large institutions to abandon the credit union business model. The effects of these risk weightings will exert a particularly high amount of pressure on large credit unions and credit unions chartered specifically for business lending. If these institutions abandon the CU business model the negative impact on the insurance fund will be massive.

Ultimately, and most importantly, the painful effects of this proposed rule will be felt most by credit union **members**. As CUs shift portfolio allocation to align themselves with the new RBC rule they will inevitably be forced to seek out new sources of income. Members will see less returned to them in dividends, and face higher fees as a result. To avoid this, the proposed risk weightings should be revised away from these sweeping generalizations, in order to more accurately represent the varied risks of individual financial instruments.

Actors Federal Credit Union very much appreciates this opportunity to share our views and we thank you for taking the time to read our comment letter. In Summary:

- The section on individual minimum capital requirements should be removed as we believe that it is far too subjective and that it undermines the RBC model.

- There needs to be a methodology for taking into account a specific credit union's expertise and experience in an area of business when assessing their capital requirements.

- The risk weightings need to be further broken down to better reflect the many sub-categories that exist within the categories that are currently provided.

- All risk weightings should be reviewed to ensure that Credit Unions do not suffer a competitive disadvantage from weightings that are dramatically higher than those used by the banks.

We look forward to seeing the future incarnations of this rule and to being a part of this process.

Sincerely,

Jeff Rodman
President
Actors Federal Credit Union