



May 25, 2014

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

Mr. Gerald Poliquin,

Our credit union is very receptive to a risk-based approach in establishing capital requirements. We do however have several concerns with the Risk Based Capital (RBC) proposal now under consideration which include:

- The proposed risk weightings for mortgage and commercial loans are more stringent than those created by the Basel III Committee and that will be used by the FDIC and OCC;
- Over laying the new methodology over our existing capital requirements mandated by law, which are already 40% higher than the comparable requirement on community banks, is an unfair competitive burden;
- Increasing NCUA's subjective authority to impose even higher capital requirements could create difficult relationships between credit unions and examiners;
- The proposal does not adequately reflect the unique capital structure and capital accumulation process utilized by credit unions. As you know, we build capital through retained earnings and do not have access to the capital markets to boost earnings;
- Credit unions are only being provided eighteen (18) months after the rule becomes final to comply. This is in sharp contrast to the 9 years that banks were given to comply with bank RBC requirements;

There are other more finely nuanced concerns; however these are the one's Community Credit Union of Florida has identified as the most troubling to us.

We appreciate this opportunity to comment on this proposed rule and for considering our views on the proposed RBC proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "David O. Brock".

David O. Brock  
President/CEO

## NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, 702, 703, 713, 723, and 747

RIN 3133-AD77

### Prompt Corrective Action—Risk-Based Capital

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) is proposing to amend NCUA's regulations regarding prompt corrective action (PCA) to restructure the part, and make various revisions, including replacing the agency's current risk-based net worth requirements with new risk-based capital requirements for federally insured "natural person" credit unions. The proposed risk-based capital requirements would be more consistent with NCUA's risk-based capital measure for corporate credit unions and the regulatory risk-based capital measures used by the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve, and Office of the Comptroller of Currency (Other Federal Banking Regulatory Agencies). In addition, the proposed revisions would revise the risk-weights for many of NCUA's current asset classifications; require higher minimum levels of capital for federally insured natural person credit unions with concentrations of assets in real estate loans, member business loans (MBLs) or higher levels of delinquent loans; and set forth the process for NCUA to require an individual federally insured natural person credit union to hold higher levels of risk-based capital to address unique supervisory concerns raised by NCUA. The proposed revisions would also eliminate several of NCUA's provisions, including provisions relating to regular reserve accounts, risk-mitigation credits, and alternative risk-weights.

**DATES:** Comments must be received on or before May 28, 2014.

**ADDRESSES:** You may submit comments, identified by RIN 3133-AD77, by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *NCUA Web site:* <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx>. Follow the instructions for submitting comments.

- *Email:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include "[Your name]—

Comments on Proposed Rule: PCA—Risk-Based Capital" in the email subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for email.

- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

You can view all public comments on NCUA's Web site at <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518-6546 or send an email to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

#### FOR FURTHER INFORMATION CONTACT:

*Technical:* Steven Farrar, Loss/Risk Analyst, Office of Examination and Insurance, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518-6393, or *Legal:* John H. Brolin, Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518-6438.

#### SUPPLEMENTARY INFORMATION:

- I. Summary of the Proposed Rule
- II. Section-by-Section Analysis
- III. Effective Date
- IV. Regulatory Procedures

#### I. Summary of the Proposed Rule

The Board is proposing to revise and replace NCUA's current PCA rules for federally insured natural person credit unions.<sup>1</sup> The proposed revisions would include a new method for computing NCUA's risk-based capital measure that is more consistent with the risk-based capital measure for corporate credit unions<sup>2</sup> and the risk-based capital measures used by the Other Federal Banking Regulatory Agencies.<sup>3</sup> In general, the revisions would adjust the risk-weights for many asset classifications to lower the minimum risk-based capital requirement for credit unions with low risk operations. Conversely, the revisions would require higher minimum levels of risk-based capital for credit unions with

concentrations of assets in real estate loans, MBLs, or high levels of delinquent loans. In addition, due to the known limitations of any widely applied risk-based measurement system, the proposed rule includes procedures for NCUA to require an individual credit union to hold a higher level of risk-based capital where specific supervisory concerns arise regarding the credit union's condition. Finally, the revisions would eliminate the provisions of current § 702.401(b) relating to transfers to the regular reserve account, current § 702.106 regarding the standard calculation of risk-based net worth requirement, current § 702.107 regarding alternative components for standard calculation, and current § 702.108 regarding risk-mitigation credit.

#### A. Background

NCUA's primary mission is to ensure the safety and soundness of federally insured credit unions. NCUA performs this public function by examining and supervising all federal credit unions, participating in the examination and supervision of federally insured state chartered credit unions in coordination with state regulators, and insuring federally insured credit union members' accounts.<sup>4</sup> In its role as administrator of the National Credit Union Share Insurance fund (NCUSIF), NCUA insures and regulates approximately 6,753 federally insured credit unions, holding total assets exceeding \$1 trillion and representing approximately 94.6 million members.

In 1998, Congress enacted the Credit Union Membership Access Act (CUMAA).<sup>5</sup> Section 301 of CUMAA added new section 216 of the Federal Credit Union Act (FCUA),<sup>6</sup> which requires the Board to adopt by regulation a system of PCA to restore the net worth of federally insured "natural person" credit unions (credit unions) that become inadequately capitalized. In developing the system, the Board is required to take into account that credit unions do not issue capital stock, must rely on retained earnings to build net worth, and have boards of directors that consist primarily of volunteers. In 2000, the Board implemented the required system of PCA primarily under part 702 of NCUA's regulations.<sup>7</sup>

<sup>4</sup> Within the nine states that allow privately insured credit unions, approximately 133 state-chartered credit unions are privately insured and are not subject to NCUA regulation or oversight.

<sup>5</sup> Public Law 105-219, 112 Stat. 913 (1998).

<sup>6</sup> 12 U.S.C. 1790d.

<sup>7</sup> 12 CFR Part 702; see also 65 FR 8584 (Feb. 18, 2000) and 65 FR 44950 (July 20, 2000).

<sup>1</sup> 12 CFR Part 702.

<sup>2</sup> See 12 CFR Part 704.

<sup>3</sup> See 78 FR 55339 (Sept. 10, 2013).