AmeriCU CREDIT UNION

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AMERICA'S CREDIT UNIONS

May 27, 2014

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

Re: ***NCUA Risk-Based Capital Rule Proposal, COMMENTS AmeriCU Credit Union, Rome NY Charter # 68433***

Dear Mr. Poliquin:

AmeriCU Credit Union has reviewed the analyses of NCUA's proposed risk-based capital rule, and we appreciate the opportunity to provide our comments. While we agree that the current PCA needs to be revamped in light of increased concentrations of real estate loans, member business loans, and investments in **some** Credit Unions, we are concerned about the proposed rule's "template" approach, which in our opinion, does not allow for significant variations in Credit Unions' operating policies, underwriting practices, membership base, and actual positive financial performance. We have enumerated our specific concerns in the sections that follow.

1. ***NCUA Proposal:*** Deducts NCUSIF amount from both the numerator and denominator, which effectively nullifies the NCUSIF.
   AmeriCU Recommendation*:* We recommend that the rule either: (1) include the NCUSIF amount in the capital (numerator); (2) classify the fund as an investment on the balance sheet with a low risk weight; or (3) leave the fund on the balance sheet only and assign zero risk weight.
   Rationale: A low risk weight would account for the rare possibility that the fund may tap into Credit Unions' funds (NCUSIF) to cover any premium shortfalls in the future. Assigning a zero risk weight would indicate NCUA's prudent management of the funds (hence the NCUSIF is and has been well-funded compared with banks).

2. ***NCUA Proposal:*** The Overnight Fund at the Federal Reserve Bank and other banks are risk-weighted at 20%.
   AmeriCU Recommendation: We recommend that cash deposited in the Fed's Fund be risk-weighted at 0% (to mirror the weighting assigned to cash on hand/vault/ATM).
   Rationale: Although the NCUA's proposed risk-weighting of 20% is consistent with Basel III for cash on deposit, cash deposited in the Fed's Overnight Fund account poses no credit, IRR, and/or liquidity risks.

3. ***NCUA Proposal:*** The risk weighting for ALL types of CUSO investment more than tripled from 75% to 250% across the board, without reflecting the variability inherent in the 20+ types of CUSO services permitted under NCUA Regulations Part 712.5.
   AmeriCU Recommendation*:* We recommend that CUSOs be individually risk-weighted between 75% and 250% based upon service type. Furthermore, we recommend that both insurance brokerage/agency services and registered investment advisor services be risk-weighted at 75% (the current risk weighting) because they pose very little risk to the Credit Union.

Rationale: AmeriCU's two CUOs (state-chartered) are underwritten based on strict guidelines with very little risk. Should the CUOs be liquidated, the businesses' assets (member account relationships whether insurance or investment related) could be sold at a premium ranging from one to four times their book value. AmeriCU Capital Management (CUO), LLC, a registered investment advisor, does not engage in day trading or risky investments such as futures, commodities, hedge funds and REITs. It is governed and regulated by the SEC and by FINRA. Our members' individual aggregate portfolios use a "balanced" asset allocation model, and all funds are held by a third-party custodian (TD Ameritrade), which further insulates AmeriCU from risk. AmeriCU Services, LLC, is a NYSDFS licensed insurance business governed, regulated, and annually examined by the New York State Department of Financial Services (NYSDFS). In addition, all members' policies are provided by insurance companies licensed to do business by the State of New York, which has the most rigorous insurance licensing requirements in the United States. The CUO does not engage in excess and surplus lines of business or any other risky exposures.

4. ***NCUA Proposal:*** The NCUA's proposed risk-weightings for non-delinquent first mortgages of 50%/75%/100% are based purely on the percentage of assets with no consideration for a Credit Union's charge-off experience.

   Recommendations: We propose a consistent baseline risk-weighting for non-delinquent first mortgages of 50% and for other real estate loans of 100%, regardless of percentage of assets (consistent with Basel III). Furthermore, we recommend that risk weightings take into account Credit Unions' actual experience of delinquency and loss, as measured by charge-off ratio. We suggest that at minimum, a 25% "credit" be applied for those institutions with **0.25% or less average net charge-offs** in that particular category of loan over the past three-year period (consistent with a CAMEL Code 1 Rating).
   Rationale: AmeriCU's proposed baseline risk-weightings are consistent with Basel III for banks <$15B. In addition, the actual experience of each Credit Union should factor heavily in calculating the necessary capital requirement to cover the associated balance sheet risk. From 2008-2013, AmeriCU averaged 0.08% in charged off real estate loans (the peer average was over five times that). In 2008, our average net charge offs real estate loan ratio was 0.05% and in 2013 the ratio was 0.08%. Had the proposed risk weighting for real estate loans been in place in 2013, to achieve the 10.50% well-capitalized threshold, AmeriCU would have been forced either to sell approximately $90 million of our real estate portfolio, and hold the funds in cash or invest into the overnight account (earning roughly 25 basis points). It simply does not make economic sense, and would be counter-productive to our mission and a grave disservice to our members. This is an example where the "template" approach applied in this proposal does not take into consideration a Credit Union's actual performance. *(Please refer to Table 1 which summarizes AmeriCU's charged off real estate loans from pre-crisis to now. Table 2 illustrates that FICO scores have remained stable or have increased in most instances from the time of origination through March 2014.)*

Table 1

AmeriCU Real Estate Historical Trends

	Dec-08	Dec-09	Dec-10	Dec-11	Dec-12	Dec-13
Net Charge Offs All	.43	.38	.34	.27	.26	.25
Net Charge Offs 1st Mtg	.03	.00	.10	.20	.04	.04
Net Charge Off Other RE	.06	.17	.13	.09	.11	.11
Total Real Estate	.05	.12	.12	.13	.08	.08

Table 2 Dec-13	**Weighted Average Original FICO Score**	**Weighted Average Current FICO Score**
1st Lien Hm. Eq. < 80% LTV	778	758
1st Lien Hm. Eq. >80% <90%	719	728
1st Lien Hm. Eq. >90% LTV	693	740
2nd Mtg. <80% LTV	752	747
2nd Mtg. >80% <90%	736	730
2nd Mtg. >90%	733	721
HELOC <80%	763	753
HELOC >80% <90%	763	715
HELOC >90%	700	716
FICS 1st Lien HE	744	738
FICS 2nd Lien HE	760	688
1st Mortgage 15 Yr	769	789
1st Mortgage 20 Yr	755	776
1st Mortgage 30Yr	765	755
ARM's	778	799

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5. ***NCUA Proposal:*** Non-delinquent, non-federally guaranteed student loans are risk-weighted at 100%.
Recommendation: We recommend that private student loans that are **fully insured** (principal and interest) be risk-weighted at 0%, as they present **no risk to the Credit Union**. We concur that **uninsured** private student loans should be risk-weighted at the NCUA's recommended 100%, in alignment with Basel III.
Rationale: AmeriCU's private student loans are underwritten based on strict ability to repay guidelines, the loans are co-signed, and they are not needs-based (as related to income). The private student loans are fully insured (principal and interest) and therefore pose little or no risk. This model is quite contrary to federally guaranteed student loans that are not underwritten based on strict guidelines, have no co-signer, and they are mainly needs-based as related to income. AmeriCU has over $11 million in our fully insured student loan portfolio with no charge-offs recorded.

6. ***NCUA Proposal:*** The proposed Mortgage Servicing Rights (MSR) risk weighting more than tripled from 75% (current) to 250%, regardless of the accounting method used.
AmeriCU Recommendation: We recommend that the NCUA's risk-weighting consider the accounting method being used. For those Credit Unions utilizing the Fair Value Method, should be assessed a higher risk weighting of 150%; however, we recommend that those using the Amortization Method should be assessed a risk weighting of 75% (the NCUA's current risk weighting), as this method is proportional and more conservative.
Rationale: The type of accounting employed by a Credit Union mitigates risk. Specifically, a servicing asset is initially reported at its fair market value; however, the servicing is subsequently measured using two accounting methods: (A) Fair Value Method, which measures the servicing asset at fair value at each reporting date and reports changes in fair value of servicing assets in earnings in the period, most cases resulting in large fluctuations; or (B) The Amortization Method, which amortizes the servicing assets in proportion to and over the period of estimated net servicing income and assess servicing assets for impairment based on fair value at each reporting date. This risk weighting model would more accurately reflect risk for each of the accounting methods.

7. ***NCUA Proposal:*** Unfunded commitments for off-balance sheet items, non-business loans have conversion rate of 10% with a risk weight of 75%, while business loans have conversion rate of 75% with a risk weight of 100%.
AmeriCU Recommendation: We recommend that either: (A) off-balance sheet items be excluded from the denominator; or (B) if included, off-balance sheet items be assigned a risk weight of 0% because the Credit Union retains the authority and ability to terminate unused credit lines (for consumer and/or business). Unfunded lines of credit should be left to Credit Unions to manage prudently through their underwriting criteria or policies, based on their members' loan payment history.
Rationale: Members need to access these funds, just as Credit Unions need access to CLF, Fed discount windows, FHLBLOC, and Corporate FCU LOC, also NCUA needs to access lines of credit with the United States Department of Treasury when needed. Denying members access to these funds when needed would be contradictory to our core principle as Credit Unions. In the event that Credit Unions are forced to reduce or eliminate access to these funds in order to improve risk-based capital requirements, it would be a disservice to our members and a deviation from our core philosophy.

8. ***NCUA Proposal:*** The information supporting the RBC rule is derived exclusively from 5300 Reporting, which in our view, simply does NOT provide data that is **granular** enough to accurately measure risk, and thus to satisfy the NCUA's larger objectives. The 5300 Report does not contain all the data necessary to fairly and accurately determine the level of capital required to mitigate Credit Unions' interest rate, credit, and business risks.
   AmeriCU Recommendation: We recommend that the 5300 Report be expanded to drill down into:
   - ***Liabilities*** – balances, terms, rates, etc. for each deposit type (regular shares, money market, certificates of deposit, etc.)
   - ***Loans*** – charge-off history, weighted average loan-to-value, debt-to-income ratio, weighted average FICO, etc. for each category.
   - ***Statistical data*** – the NCUA should take into consideration the particular regional economic environment in which individual credit unions are operating, by accessing data compiled by the Federal Reserve and Federal Home Loan Bank system and compare individual credit union performance versus others in a regional peer group.

   Rationale: To accomplish the NCUA's objective of more accurately measuring Credit Unions' risk and stability, a more complete and holistic analysis of Credit Unions' portfolios is required, particularly one that accounts for the increased complexity and variability inherent in the operations of larger Credit Unions.

CONCLUSION

The proposed rule would **penalize** Credit Unions such as AmeriCU whose philosophy and practice is to lend consistently to members and thus maintain higher loan-to-share ratios, and **reward** those Credit Unions whose practice is to stockpile cash and thus maintain lower loan-to-share ratios. As written, the proposed rule could unintentionally impede growth and undermine the core Credit Union philosophy of "people helping people". For illustrative purposes, please consider the effects of the proposed rule on the $27.1B State Employees Credit Union (SECU) in North Carolina versus AmeriCU Credit Union:

- As of December 31, 2013, SECU's net worth was 7.33% versus 8.35% for AmeriCU.
- Under the proposed rule, SECU's risk-based capital would be 14.38% versus 9.66% for AmeriCU.
- SECU maintains **41% of total assets** in 0-1 year investments (overnight funds) with a **loan-to-asset ratio of 55%**.
- AmeriCU maintains **8.2% of total assets** in 0-1 year investments (overnight funds) with a **loan-to-asset ratio of 86%**.

As such, under the proposed rule, SECU's rating would remain "Well Capitalized" whereas AmeriCU Credit Union's rating would be downgraded from "Well Capitalized" to "Adequately Capitalized" – a rating we believe is <u>**NOT**</u> reflective of the long-term health and stability of this Credit Union, considering our asset quality, charge-off ratio, and conservative approach to managing business, lending, and investment risk.

AmeriCU <u>fully endorses the NCUA's higher goal, which is to more accurately measure Credit Unions' risk and stability</u> – but not to the extent that it becomes detrimental to fulfilling the Credit Union mission. We are deeply concerned that an unintended effect of this rule will be that Credit Unions will make far-reaching business decisions that are not in the best interests of members, but instead are designed to achieve capital requirements based on a generic risk-based methodology.

Finally, it is of **serious concern** to us that the proposed rule would grant NCUA Examiners greater authority to impose even higher capital requirements on individual Credit Unions which could even exceed "Well Capitalized" thresholds. **We find this very disturbing.** What additional oversight and field examination capabilities have been (or will be) implemented to support such an exercise of greater authority. This proposal follows a lack of prudent NCUA oversight with embedded corporate examiners, which ultimately exacerbated the corporate crisis. How will the NCUA ensure that any such higher requirements would be justly and consistently applied across the industry? NCUA leadership's recent position is that the RBCP will only affect 8% of Credit Unions upon implementation. Whether it affects 8% or 80% should not be the validating criteria – a poor policy is still a poor policy.

We thank you for the opportunity to provide comments regarding the proposed rule and look forward to the NCUA's appropriate revisions in response to Credit Unions' collective feedback.

Sincerely,

AMERICU CREDIT UNION

Mark A. Pfisterer
President and CEO

MAP/be/jrc