

From: [Rick Schmidt](#)
To: [Regulatory Comments](#)
Subject: Prompt Corrective Action Risk-Based Capital Comment Letter
Date: Tuesday, May 27, 2014 1:00:54 PM

Dear Secretary of the Board Poliquin,

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

Dear Mr. Poliquin:

I am the President/CEO of WestStar Credit Union. WestStar Credit Union serves 23,000 members in the state of Nevada. I am writing to express my concerns regarding the proposed Risk Based Capital (RBC) requirements and their impact on my credit union, credit unions in general and most importantly the member/owners.

While we support the need for a system to effectively manage RBC, the current proposal has a number of issues with it that ultimately will cause more problems than it resolves:

1. The proposed requirements are in many areas more stringent than the equivalent bank standards. Why place more restrictive capital requirements on the group of financial institutions that best weathered the recent financial crisis? As noted in various independent analyses, credit union capital was never at a point where there was a risk of systemic failure. At most, the RBC requirements should be no higher than the FDIC equivalent for banks. To do otherwise would put all credit unions into an uncompetitive position against the banking industry.
2. The overall risk weighting system appears to be arbitrary. The excessive weighting on CUSO investments of 250% does not have any objective basis. WestStar has modest CUSO investments that in no way could construe to a 250% risk. In the most conservative methodology, the maximum risk should not exceed the maximum exposure – in this case 100%, not 250%. One size does not fit all. NCUA is trying to rein in perceived CUSO risk in ways that harm credit unions ability to grow without addressing any actual risk within a given CUSO.
3. The risk weighting on real estate loans is another example of the arbitrary nature of this proposed rule. The intent of the rule is to limit the concentration of real estate loans without considering the credit quality of the loans. If a real estate loan portfolio is entirely ARM loans with maximum LTV's of 70% it would not matter. The risk weighting would arbitrarily increase if the concentration is over 25% of assets. Interest rate risk and concentration risk are real issues that need to be managed effectively. The ALLL, as well as the risk weighting for delinquent real estate loans, addresses the risk within this portfolio. The risk weighting for performing real estate loans should not exceed 100%, regardless of the concentration within the overall portfolio. The proposed weighting is duplicative and unnecessary.
4. The treatment of the Allowance for Loan and Lease Loss at a maximum of 1.25% of risk assets penalizes credit unions. The ALLL exists to account for the risk of loss in the loan portfolio. GAAP establishes the required reserve for the ALLL. Limiting the portion of the ALLL that is applied to the RBC calculation punishes credit unions for recognizing the risk within their loan portfolio and reserving accordingly. The full balance of the ALLL should be utilized in calculating the RBC ratio. It is an asset of the credit union and should not be discounted.
5. The credit union funds on deposit at the NCUSIF are just that – the credit union's funds. That asset belongs to the credit union, not the NCUA. As such, it should be incorporated fully into the RBC calculation.
6. The timeframe to implement this proposal is far too short. Given the complexity of the rules, credit

unions will need time to develop and implement strategies to address their balance sheet. It takes time to make these types of changes. Investments cannot be unwound overnight. Restructuring a balance sheet is a complex undertaking that if done too quickly or without proper planning is a recipe for trouble. If the NCUA is trying to improve the safety and soundness of the industry, it will not impose such a short window to implement. Three to five years is the minimum time frame to adequately implement a proper RBC strategy.

7. The most concerning aspect of the proposal is the ability of an examiner to require a higher RBC level based on their individual judgment.

Requiring a credit union to maintain a higher RBC would have the net effect of unduly constraining the ability to grow or to generate sufficient income to achieve or maintain that higher capital. What objective measurements would be utilized to determine if a credit union's RBC level was inadequate? What RBC requirements are not addressed within the rule that would necessitate an examiner increasing the RBC?

It is inconceivable that, after creating a set of complex rules and calculations to determine the RBC level, the NCUA would then leave it up to the individual judgment of the examiner to decide if that was sufficient or not. In whatever form the final rule takes, the calculation should stand on its own to determine the RBC adequacy.

If allowed to stand, how is the NCUA to monitor and manage this rule? Whose standard would apply – the examiner, the Region, the NCUA Board? How is disparity in approach between examiners or between regions to be resolved? How is the appeals process to be managed in a way that is fair and transparent? This is far too subjective and must be removed from the rule.

In summary, the rules are designed to create a one size fits all approach that does not meet the needs of our industry. The rules are overly complex and arbitrary in their application. They are punitive in many areas in ways that will limit or eliminate the ability to grow and/or generate income to maintain the very capital levels you are striving to achieve.

I respectfully request that the NCUA reexamine this proposal and create a new rule that addresses RBC in a meaningful way that improves our ability to serve our members and not place handcuffs on us as we emerge from the economic turmoil of the last several years.

Yours,

Rick Schmidt
President/CEO
WestStar Credit Union

Sincerely,

Rick Schmidt
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