TIM SCOTT
SOUTH CAROLINA

167 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-6121
FAX (202) 228-5143
scott.senate.gov

United States Senate

COMMITTEES:
AGING
COMMERCE, SCIENCE, AND TRANSPORTATION
ENERGY AND NATURAL RESOURCES
HEALTH, EDUCATION, LABOR, AND PENSIONS
SMALL BUSINESS AND ENTREPRENEURSHIP

May 27, 2014

The Honorable Debbie Matz
Chairman
National Credit Union Administration Board
1775 Duke Street
Alexandria, VA 22314

Dear Chairman Matz:

The proposal on risk based capital issued by the National Credit Union Administration (NCUA) Board on January 23, 2014 raises several concerns that I feel must be addressed before the Board adopts the rule in final form.

I am writing to encourage the Board to make changes to the proposal to ensure that the rule is implemented consistent with current law, does not unduly burden credit unions, and does not adversely affect healthy credit unions' ability to meet the needs of their members. Specifically, I encourage the Board to 1) take into account the cost and burden of implementing additional capital requirements beyond the current successful leverage ratio, 2) bring the proposed risk weightings in line with those applied to other community financial institutions, and 3) give credit unions more time than the proposal's allotted 18 months to come into compliance after it is finalized.

Economic Impact, Impact on Credit Union Members, and Compliance with Current Law

During the financial crisis, credit unions served as an important source of liquidity in local communities and weathered the downturn without requiring federal assistance. These cooperatives did not engage in the risky lending practices that led up to the crisis and nearly all maintained their well-capitalized status. In spite of this, the NCUA's risk-based capital proposal imposes a higher risk-based requirement on top of the 7% leverage ratio credit unions are required to maintain to be considered well-capitalized. In my view, this approach seems unnecessary and burdensome since credit unions have limited outlets for raising capital and the crisis did not provide evidence for greater credit union capital reserves.

As you know, the proposal includes a description of the impact that the Board believes the rule would have on credit unions. It notes that the 10 credit unions that would become undercapitalized as a result of this proposal would need to retain $63 million in risk-based capital in order to be considered adequately capitalized. However, industry representatives estimate that the collective impact of this proposal on all of the credit unions subject to it would be in excess of $7 billion. I have very significant concerns that a regulatory action could draw $7 billion of capital out of the economy at this time. Because of credit unions' limited avenues for raising capital, it is likely this proposal would force them to charge higher lending and financial services fees, reduce dividend payments to members, and deter new depositors. This proposal could have the unintended consequence of reducing liquidity and financing for families and small businesses. Before proceeding with the proposal, I urge NCUA to conduct a thorough study or at the very least provide sufficient economic analysis and support for the proposal.

Further, the proposal would also allow NCUA to impose individual minimum capital requirements above what the rule would require, on a case by case basis. This authority is not expressly provided in the *Federal Credit Union Act*. If such a provision were implemented, it would eliminate regulatory certainty regarding a credit union's capital requirements and needlessly complicate the ability of credit unions to plan and provide for required capital.

Risk-Weight Calibration

I am also concerned that the proposed risk weightings for member business loans, mortgage loans and mortgage servicing rights are too high and not properly calibrated for credit unions' operations as the *Federal Credit Union Act* directs. Some of these risk weights would be considerably higher than those applied to community banks under the Basel system even though credit unions are more risk averse, and could hinder credit union lending to home owners and small businesses as well as reduction in other services.

Compliance Timeline

Finally, I am very concerned with the speed at which the Board seeks to implement this regulation, particularly in light of the statutory constraints credit unions face in terms of raising capital and the amount of time small banks have to comply with Basel III capital requirements. The Board has officially allowed only a 90 day comment period and seeks to implement the rule 18 months after it has been finalized. I note that the banking regulators afforded small banks nearly nine years from the time the first Basel III rules were proposed until the time they are expected to be implemented in 2019. I strongly urge NCUA to give the stakeholders more time to comment on this proposal and credit unions more time to implement the final rule.

Applying risk-based weighting certainly has value, and I appreciate the NCUA for taking on this task. Thank you for taking my comments into consideration, and I look forward to your timely response to my concerns.

Sincerely,

Tim Scott
United States Senator