



May 27, 2014

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

Re: Comment to Proposed Prompt Corrective Action: Risk Based Capital Rule  
RIN 3133-AD77

Dear Mr. Poliquin:

On behalf of Heartland Credit Union, Madison Wisconsin and our 20,800 members throughout Madison and Southwestern Wisconsin, we welcome the opportunity to comment on the NCUA's Proposed Prompt Corrective Action: Risk Based Capital (RBC) Rule.

Heartland Credit Union is the primary lender for many of our agricultural / dairy farmers in the State of Wisconsin. We are proud to be able to provide agricultural loans to the hard-working farmers in our field of membership. We feel that providing these loans – member business loans – is essential to the credit unions profitability, fulfills a fundamental credit union purpose: credit for provident and productive purposes and essential to the Wisconsin farmer and our dairy state.

We urge the NCUA to formulate a new proposal better tailored to the credit union risks and needs. We wholeheartedly agree with the points expressed in the recent letter to the NCUA from Representatives King and Meeks, which was signed by a bipartisan group of more than 320 other members of the U.S. House of Representatives:

- The NCUA should take into account the costs and burdens of implementing new risk-based capital requirements beyond current ratios.
- The NCUA should provide justification and more clarity as to why the risk weights differ from those applied to community banks.
- The NCUA should give credit unions more time to comply with any changes to capital reserve requirements.

**The proposal is unnecessary**

The NCUA should consider whether a system of risk-based capital reserves is even needed for federally insured credit unions, since their high net worth leverage ratio requirement already demands higher capital levels than similarly sized banks. The NCUA

has failed to demonstrate the necessity of a new RBC regimen, given the historical safety and soundness of credit unions (especially obvious during the recession). The NCUA already has tools to manage interest rate risk, concentration risk, investment risk, and other concerns. Why stress credit unions further by requiring more capital and tying our hands as we are trying to grow and serve our members?

As former Senator Alfonse D'Amato (R-N.Y.) noted in his recent letter to the NCUA, the basic net worth standards for a credit union to be adequately or well capitalized are already higher than those set for banks. Because of this higher "pure" net worth requirement, Congress deliberately did not intend to allow for a separate risk-based requirement for credit unions to be well capitalized. Implementation of the RBC system, as proposed, would serve only to hamper growth and restrict Heartland's ability to compete – just the opposite of what Congress intended. The NCUA has failed to consider the costs and burdens of implementing new RBC requirements beyond the current leverage ratio.

#### **The proposed risk-weighting system is unsound**

Even if an RBC program were appropriate in some form, the proposed risk-weighting system is fundamentally flawed. We urge the NCUA to rescind its proposal and "go back to the drawing board." Credit unions need a system that:

- Properly captures the risks involved in their lending and investment decisions;
- Is fair and equivalent to the system imposed on community banks; and
- Allows credit unions to base decisions on safety, soundness, and member service, rather than compliance with excessive capital reserve requirements.

The proposal increases the risk weight for certain types of loans – including real estate loans and member business loans – based *only* on their concentrations in a credit union's portfolio. This system fails to predict risk adequately. For example, Heartland Credit Union has been originating and servicing agricultural loans for 20 years, and during this time, we have only incurred losses of \$100,000 over the entire portfolio during that 20 year period.

The RBC fails to consider whether an MBL is secured or unsecured, the lender's underwriting standards, loan-to-value ratios, collateral type, or other indicia of loan quality. Additionally, historic loan losses should be included as an offset. A credit union that has never had an MBL or mortgage default should not be subject to the same loan concentration thresholds as a credit union with significant default history. If the NCUA retains the concentration-risk focus of its risk weighting system, it should consider more reasonable concentration escalators. The proposed concentration thresholds are so low that they would force credit unions to make choices based on compliance rather than safety and soundness or member service, simply to avoid going over a concentration threshold.

#### **The "Individual Minimum Capital Requirement" would create too much uncertainty**

Under the proposal, the NCUA would have discretion to increase a credit union's individual risk-based capital requirement, based only on an examiner's subjective determination that the credit union's capital "is or may" become inadequate,

regardless of the credit union's actual RBC ratio. This would authorize the NCUA to impose capital requirements that exceed even well-capitalized levels. Doing so on a case-by-case basis would give examiners far too much discretion and create too much uncertainty for credit unions. How could credit unions be expected to manage their portfolios and adhere to the RBC standards if examiners can "move the goalposts" whenever they see fit?

This rule, as written, would cause competitive disadvantage and hardship on credit unions. To allow additional "just because I said so" authority for individual examiners compounds these effects. It should be eliminated from the proposal. If not eliminated, then the system should at least be modified to give credit unions a meaningful appeals process. Simply requiring "reasonable prior notice" (the deadline for which is not defined) and then giving the credit union 30 days to respond or to seek a recommendation from the NCUA Ombudsman is woefully inadequate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sally Dischler".

Sally Dischler  
President/CEO  
Heartland Credit Union