

**From:** [Andrew Reynolds](#)  
**To:** [Regulatory Comments](#)  
**Subject:** Comments on Proposed Rule: Prompt Corrective Action; Risk-Based Capital  
**Date:** Wednesday, May 28, 2014 1:35:42 PM

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We are writing on behalf of Baylands Federal Credit Union (BFCU), which serves families located in the general vicinity of the Middle Peninsula Planning District of the Commonwealth of Virginia and headquartered in West Point, Virginia. As of 03/31/2014, we have 5,681 Members and \$73,938,656 in assets. BFCU appreciates the opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposed rule, Prompt Corrective Action - Risk-Based Capital (PCA - RBC).

There are four major concerns with regards to PCA - RBC. This includes the proposed compliance timeline, capital options, risk-weights, and arbitrary rulemaking. The proposed 18 month implementation timetable is not long enough for a rule with such broad impacts on our credit union. There are limited options for our credit union to raise capital. The proposed risk-weight on our assets is unnecessarily complex and restricts changes in business strategy and implementation. Most importantly, the proposed rule provides NCUA the ability to require a higher minimum risk-based capital ratio for an individual credit union on a case by case basis.

### **Compliance Timeline**

An 18 month implementation period is dramatically too short based on the fact that the proposed rule affects all aspects of our credit union's balance sheet and off balance sheet items. Any implementation period should be at least 3 years from the passage of any final rule in order to give our credit union enough time to analyze these items and make necessary adjustments in our operations and our long term planning goals. Based on this short proposed implementation period, an acceptable assumption would be that credit unions would have access to a supplemental capital market.

### **Capital Options**

As of right now, our credit union's only two options to raise additional capital are to shrink the balance sheet and retain earnings. In the current low net interest margin environment, with drastically increasing regulatory costs, retaining earnings is a slow and challenging task. Under the currently proposed rule, increasing earnings becomes an unanswerable paradox. NCUA is demanding credit unions to earn more with riskier assets and then penalize these assets with higher risk weightings. As a result of this rule, credit unions under \$250 million will be unable to grow their balance sheet. Credit unions will be forced to consolidate into bigger entities, and the speed of our industry's consolidation is further amplified. We do not want to lose the customized service we offer to our membership.

### **Risk-Weight Calibration**

Natural person credit unions were not involved in risky lending practices that resulted in the financial crisis. The proposed risk weights were not properly set to reflect that credit unions' historic risks are lower than those of small banks. Our credit union provides residential mortgage loans to our field of membership. A portion of these loans are in excess of 25% of assets. Under the proposed rule, this portion of our balance sheet is deemed riskier and given a risk weighting greater than 50%. Under the Basel system, small bank residential mortgages are assigned a 50% risk weighting regardless of the concentration. Again, NCUA must consider the fact that credit unions cannot go into the capital markets like banks.

Under the proposed rule, investments are given unique risk weightings based on the remaining life of a term investment. BFCU operates under the investment philosophy of maintaining a 5 year

ladder in investments that carry little to no default risk. It would be justifiable to give all term investments with a life under 5 years a comparable risk weighting. The only investment that can meet operational needs today is cash, and BFCU appreciates the proposed risk weighting in this asset class.

### **Arbitrary Rulemaking**

NCUA is a diverse organization with talented individuals that provide leadership copious resources to insure the deposits of more than 95 million members. The ability to protect member depositors and tax payers has been displayed during the recent financial crisis. NCUA did not have the ability to raise the minimum net worth ratio on individual credit unions on a case by case basis during the last crisis. NCUA has not shown how the ability to demand higher capital reserves on individual credit unions could have reduced previous losses to the National Credit Union Share Insurance Fund.

To provide NCUA the ability to require a higher minimum risk-based capital ratio for an individual credit union is unfair, arbitrary, capricious and dangerous. No credit union deserves to be given different capital requirements based on an opinion. NCUA should not be given the ability to change the rules on a case by case basis. This is arbitrary and is completely subjective judgment of the individual examiner and can differ from credit union to credit union. An organization is only as strong as its weakest link. Do not enable employees of NCUA to change the rules. This gives too much power to the examiner and leaves credit unions at the mercy of an individual examiner. Finally, the proposed rule does not establish an upper limitation on these individual minimum capital requirements, which exacerbates our concerns.

Thank you for the opportunity to comment on this proposed rule and for considering our views on risk based capital requirements. We appreciate the tools provided by NCUA to analyze the potential effects of PCA – RBC on our credit union. It is a pleasure to work with an agency that shares the goal of protecting and serving members of our credit union.

Respectfully submitted,

Christopher R. Burgess  
President and CEO

Wm. Andrew Reynolds  
Controller

CC: Senator Mark Warner

CC: Senator Tim Kaine

CC: Congressman Rob Wittman

CC: Rick Pillow

CC: Mary Dunn

CC: PJ Hoffman

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