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

Via e-mail: regcomments@ncua.gov

RE: Comment to the Proposed Prompt Corrective Action –
Risk-Based Capital Regulation

Dear Mr. Poliquin:

Symbionce Financial Solutions, LLC (Symbionce) is a Credit Union Service Organization (CUSO). Our CUSO serves over 80 credit unions in 16 states, performing mortgage servicing and origination services. As the Managing Member of Symbionce, the Board of Directors and I would like to provide the following official comment letter regarding the NCUA's recently proposed risk-based capital rule.

PROPOSED REGULATION COMMENTS: We are pleased to see in recent publications by the trade associations that the NCUA has indicated that there will be substantial adjustments to the proposed regulation. It does concern us that with "substantial adjustments," the credit union industry will not have the opportunity to comment again on these adjustments. First and foremost, we are asking that the NCUA once again place the adjusted regulation out for comments. This is a necessary step to make it possible for the Board of NCUA to make sure that the adjustments are sufficient not to impair the industry.

CUSO INVESTMENT RISK: Symbionce's Board of Directors believe that the CUSO investment risk metric of 250% is excessive especially as compared to other risk ratings. For example, delinquent consumer debt over sixty days as well as delinquent unsecured credit card debt is risk rated at 150% and delinquent first lien mortgage loans are risk rated at 100%. Yet our owner credit union's investments in Symbionce have yielded over 16% average Rate of Return to the bottom line since inception of this CUSO. It is difficult for us to understand why CUSO investments that result in proven, strong earnings to their owner credit unions are arbitrarily deemed riskier.

CUSOs provide a wide range of services. The one-size-fits-all CUSO risk rating does not take into consideration:

(a) What types of services are being provided?
(b) Whether the investment represents necessary operational expenses that would be otherwise incurred by the credit union owners,
(c) Whether the amount invested is material,

(d) Whether the CUSO has a history of profitability, or whether the investment amount has been fully recovered by the credit union through direct expense savings or income. Even if there is a risk assessment for the initial CUSO investment, there is no reason to continue to have a risk assessment if the amount of the investment has been fully offset by net income or cost savings for the credit union that was generated by the CUSO.

While there are some CUSOs that are designed to return a profit through dividends, many CUSOs provide a return to the credit union owners by the reduction of operating costs or fees paid directly to the credit unions in the form of interchange/networking fees and not dividends.

NCUA's choice of equating a CUSO to a bank investing in an illiquid small business, misses the true risk and return factors. For example, when a credit union is deciding whether to pay the expenses for running an operational service through the credit union or it's CUSO, money has to be expended by the credit union either way.

If multiple credit unions pool their funds in a CUSO to provide an operational service, the money pooled is not an investment in the classic sense and should not be risk rated as such. If the credit unions choose a CUSO to provide an operational service, it is because each credit union will save money, and often receives greater expertise than they could afford on their own. Why must risk capital be reserved by the credit unions in order to save money and generate net income? It is imperative that each CUSO be analyzed and risk rated based on:

a) Services provided
b) Cost Benefit Analysis
c) Materiality
d) History of profitability or cost savings.

We find it inconceivable that NCUA intends to apply the CUSO capital risk rating to both the cash investment made by the credit union *and upon the appreciated value in the CUSO,* therefore penalizing the success of a CUSO by requiring that the credit union reach into its pocket and set aside additional capital on the profits earned by the CUSO. This essentially penalizes credit unions from investing in CUSOs and stifles innovation and collaboration.

Our recommendation is that NCUA would allow credit unions that have recouped their initial investment and has a proven track record of profitability and or cost savings to subtract that investment on a sliding scale from the Risk Based Capital Calculation until the requirement is zero. Under no circumstances should a credit union be required to set aside a percentage of capital for their CUSOs that pose no risk to the system. Now that the NCUA has more oversight over CUSOs, this analysis should be easy for NCUA to determine

In addition, unlike the banking investment powers, the CUSO risk exposure is limited to an immaterial level. There are only 22 basis points of credit union assets invested in CUSOs industry-wide; less than the aggregate corporate assessments. Each federal credit union may only invest less than 1% of assets in CUSOs. Credit unions could lose all their CUSO investments and the loss would not be material yet the upside potential could be very significant. NCUA would be making a big mistake by not recognizing the adverse policy

implications of applying the inconsistent BASEL bank investment risk ratings to CUSO investments.

MORTGAGE LOAN SERVICING (MSR) RISK RATING: The MSR risk rating of 250% is excessive, in our view. Credit unions that are affected by this regulation are also required a GAAP qualified opinion audit, which also requires outside third party evaluations of MSRs that are material. We strongly encourage NCUA to reduce this risk rating significantly. There is an active market for MSRs which have established values and do not deserve a high-risk rating. Since these are market priced evaluations, they impose little or no risk to the NCUSIF. These assets, if third-party evaluated on a minimal annual basis should be rated a 0%. If not third-party evaluated, and not a material amount, these should be rated at 100%. If these assets are a material amount and not third party evaluated – then, possibly a higher percentage can be justified. We are willing to discuss this with a NCUA representative as necessary. This is extremely important to us and our clients. We believe we can be of great insight in this matter.

EXAMINER'S ARBITRARY DISCRETION TO RISK CHANGES: In addition to the above referenced concerns about the risk weighting of CUSO investments, we are also very troubled by proposed Section 702.105(c). Unlike under the existing statutory net worth rules known as Prompt Corrective Action (PCA) regulations, credit unions will no longer have clear rules by which to run their credit union to avoid prompt corrective action by their regulatory agency. The basis for arbitrary discretion should not be needed in this age of big data and qualitative and quantitative analysis.

This proposed section invites inconsistent and potentially arbitrary applications of rules. To provide the clarity of capital and net worth expectations that a credit union board and management team must have in order to make strategic business and fiduciary decisions, subjective standards must be eliminated. Therefore, in our view, Section 702.105(c) should be deleted in its entirety. If data cannot justify an oversight change, it most likely is not necessary.

CUSO SUCCESS AND OUR STORY: We know first-hand of the struggle credit unions have to generate net income in today's economic climate. Interest rates are at record low levels. The operational costs, especially in areas of personnel costs, compliance and technology, are increasing exponentially. Coupled with the challenges most credit unions are experiencing in generating quality loans, the average net interest margin in the industry is very thin and in some credit unions the net interest margin is even negative.

Symbionce's participation model enhances the non-interest income in our credit union clients. Credit Unions less than $1 million up to $8 billion benefit from our services. If our owner credit unions cannot rely their CUSO investment being exempt from these capital requirements, they may no longer be able to expand this income generating business for all CU clients and continue to help more CU's succeed.

It has been our observation and our experience that Symbionce has been extremely successful in helping credit unions generate non-interest income and additions to capital that NCUA seeks. We want to share those observations and experiences. We have noted that several of client's net income for the year ending 2013 is less than the amounts returned to them by our CUSO. (i.e. without their participation in our CUSO services, those credit unions would have posted negative earnings without them belonging to our CUSO) Therefore, without our CUSO more credit unions would have had a negative ROA for 2013.

Restricting our owner's ability to invest more in our CUSO would mean more of our potential clients could not reap the benefits of being a client of Symbionce. Therefore, there would be less CU clients we can help by providing lifesaving non-interest income.

IMPLEMENTATION DATE: The proposed implementation date is 18 months after final passage. This is an unreasonably short time period considering the long term and significant impact of this new rule on credit union strategic business decisions. Credit unions have very limited means to raise capital under present statute and regulation. It will necessarily take a considerable amount of time to make adjustments within the balance sheet when the rules are suddenly changed. We recommend that an implementation period of no less than three years from final passage is much more appropriate. Again, in the interest of comparability, this is much more consistent with the timeframes given the banking industry as their regulators have implemented the BASEL capital standards; even though they have more access to capital management and capital building options than credit unions.

IN ADDITION, The true risk is not the investment or loan to a CUSO, rather it is *not* investing in a CUSO to share risk, reduce costs and increase income. We encourage NCUA to implement regulations that encourage the use of CUSOs to generate net income and limit all regulatory impediments on CUSOs and collaboration. We recommend the removal of risk ratings for CUSO investments and loans as immaterial, inapplicable to CUSO investments and to encourage investments in CUSOs.

We must reiterate - **first and foremost**, we are asking that the NCUA once again place the newly adjusted regulation out for comments again. With the substantial changes the Board will be making to this regulation, it is a necessary step to make it possible for them to make sure that the adjustments are sufficient not to impair the industry.

Thank you for the opportunity to comment.

Respectfully,

Ann M. South
Managing Member
Symbionce Financial Solutions, LLC

cc. Deborah Matz, Chairman
Michael Fryzel, Board Member
Richard Metsger, Board Member