



May 28, 2014

Aloha Secretary of the Board Gerald Poliquin, Chairman Debbie Matz, and NCUA RBC Team,

As a Compliance Officer I would imagine that in my 5 year tenure at Hawaiian Electric Employees FCU that I would have written a comment to the NCUA in the past. Thankfully I have not needed to and have relied heavily on our Trade Associations NAFCU, CUNA and CreditUnion.com to provide regulatory support and advocacy for our little credit union out in the middle of the Pacific Ocean. With that said I am writing this very first comment any regulatory issue to the NCUA. Clearly the stakes are very high here as it is now apparent by anyone's standards that this proposal as well conceived at the time is not good for our credit unions future and for the industry as a whole. The proposal seems to be designed with a regulators view point in mind that seems to try and lump credit unions in a one size fits all mentality base off banker's standards that are truly detrimental to our member's benefits and services. Our credit union is only a few years away from passing the \$50 million mark and this proposal would be a disincentive for us to surpass that mark.

Here is a list of some major concerns that this proposal presents.

- Several issues related to NCUA's legal authority to issue the rule as proposed, such as:
 - Comparability with banking regulatory requirements;
 - Substitution of statutorily defined legal terms;
 - Individual minimum capital requirements;
 - Definition of a "complex" credit union;
- The need for a legislative solution in order to achieve a fair and balanced risk-based capital system;
- NCUA's treatment of the regulatory process including the refusal to extend the comment period and form an industry working group prior to releasing a proposed rule, and the need for an additional notice of proposed rulemaking with public comment period;
- NCUA's drastic understatement of credit unions that will be affected by this rule and whose balance sheets and business plans will need adjustment;
- NCUA's proposed risk-based capital ratio for well capitalized credit unions set at 10.5 percent;
- NCUA's treatment of risk-weighted assets and the lack of explanation for deviation from similar banking risk-weights;
- NCUA's incorporation of interest rate and concentration risk into riskweighting for real estate, investments, and member business loans (MBL's);
- Individual minimum capital requirements for credit unions including issues with the subjectivity of their imposition;
- Components not included in the numerator portion of the risk-based capital



ratio, such as goodwill;

- The 1.25 percent cap on Allowance for Loan and Lease Losses (ALLL) especially considering the Financial Accounting Standards Board's (FASB) most recent proposal on ALLL;
- Supplemental capital authority is needed now more than ever considering the restrictions brought on by this rule; and
- The proposed 18-month implementation timetable is not long enough for a rule as complex and impactful as this proposed rule.

- NCUA has not justified the need for the rule adequately;
- NCUA would assume additional authority to impose even higher capital requirements on individual credit unions that could exceed even well-capitalized level requirements;
- NCUA would require covered credit unions to subtract good will from net worth when calculating their risk based capital requirements (note: this is consistent with Basel III);
- NCUA would also require the National Credit Union Share Insurance Fund 1% deposit to be ignored in the risk-based capital calculation;
- More credit unions than NCUA has indicated would be impacted as their net worth would fall to just barely over well-capitalized or adequately capitalized levels;
- More time is needed for the rule to be phased in;
- A number of the risk weightings, especially for member business loan and mortgage concentrations as well as for CUSO investments, do not appear to be properly calibrated for credit unions. Using higher risk weights on long-term assets to deal with interest-rate risk is misleading without considering liability maturities.

The denial of an extension for comments on such a crucial proposal also does not show respect for the industry leaders and legislators who have come out in force against the proposal as is. It only creates more of a fervor and uproar to fight against it in its entirety.

The credit union industry thrives on the cooperative spirit and conservative principles that have help it overcome the financial turmoil that closed hundreds of Banks. Please make every consideration on limiting the credit unions autonomy and flexibility to servicing its members by following the recommendations presented by NAFCU and CUNA.

With my time being limited I know it is not appropriate for the purpose of this comment letter but this RBC proposal speaks bodes to overall attack on credit unions. So I am also adding to this comment that it is not right to have the NCUA try to bully credit unions into filing 5300's on time. It has been a very mean spirited and childish rollout in the way that it has been implemented using monetary civil penalties to punish often harmless delays. This is basically robbing member's funds and handing them to the massive bureaucratic Treasury that has no invested interest in helping cooperatives. Ironically, NCUA itself has bad record of being late on its own financial reports in the past. I recommend that it only be fair that NCUA be penalized by cutting its assessments to all



credit unions for its own failure to file on time when they have a large bureaucracy in place while most credit unions like us have less than 5 people on staff. I also believe that Home based credit unions proposal to force credit unions to purchase unnecessary office space is detrimental to not only the startup of future credit unions but is a threat the fundamental basis premise of credit unions cooperative autonomy. Having rules being made solely on the basis of regulators preferences or hypothetical perceived safety versus the member's right to control the operational costs of the credit union is not "Akamai" (smart in Hawaiian)

In closing I would like to end with the following commentary below.

"Credit unions have been subjected to a number of new rules in the wake of the financial crisis, but none of them is as potentially harmful as this proposal," the CUNA comment letter, signed by CUNA President/CEO Bill Cheney, states. "Indeed, the economic and legal issues spawned by the proposal are numerous, the policy questions are real, and, as evidenced by the overwhelming level of interest in this rule, the stakes for credit unions and their 99 million member owners could not be higher."

Mahalo,
Eric Marshall

IT/Compliance Officer
NMLS # 813541
Hawaiian Electric EFCU
NCUA Charter # 1869
(808) 543-4438
eric.marshall@heoc.com