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John P. Smith, Administrator

Department of Credit Unions

Sam Brownback, Governor

May 28, 2014

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

Dear Mr. Poliquin:

On behalf of the Kansas Department of Credit Unions, (KDCU) we would like to thank you for the opportunity to provide comments on NCUA's proposed changes to NCUA Rules and Regulations Parts 700, 701, 702, 703, 713 and 747 regarding prompt corrective action and risk-based capital requirements. KDCU, as the primary regulator of Kansas chartered credit unions, understands and appreciates the monumental task facing the NCUA Board in developing and implementing revised Rules and Regulations to coincide with emerging risks facing an ever-changing credit union industry. While the NCUA Board faces many difficult decisions every day, there are not many decisions that will have as profound an impact on individual credit unions and the industry as a whole as the proposed rules changes to PCA and risk-based capital requirements.

While KDCU generally supports the need to develop new risk-based capital requirements for credit unions engaging in activities of a riskier nature, we believe the rule as it is currently proposed creates some unintended consequences which could lead to a weaker credit union system as a whole.

State Supervisory Authority

Over the years NCUA and State Supervisory Authorities (SSA's) have developed a strong working relationship for the common good of the credit union industry. After reviewing the proposed rule we have significant concerns with Parts 702.104 and 702.105 where NCUA may apply discretionary actions. We believe NCUA should continue its long-standing practice of consulting with SSA's prior to undertaking any discretionary actions involving state chartered credit unions. This consultation component should be incorporated into the proposed rule and any joint supervision memorandum of understanding entered into between NCUA and SSA's.

Cooperative Framework

State chartered credit unions in Kansas have demonstrated over the past 80 years an ability to meet the needs of their communities by offering a vast array of innovative products and services. Kansas chartered credit unions have typically applied a more conservative business model than some credit unions in other parts of the country. This conservative business approach has allowed credit unions in Kansas to weather the most difficult economic times. The new risk-based capital rules as they are currently proposed could cause well run credit unions to abandon time-tested strategic plans which have contributed to their success. The proposed rules could also stifle creative thinking and collaborations among credit unions which has been a cornerstone of the credit union movement since its inception.

Risk Weightings

Developing a universal approach to risk-based capital for credit unions choosing to engage in riskier lines of business fails to take into consideration individual credit unions efforts to mitigate that risk. For example, as regulators we have all seen good and bad MBL programs. Under the current proposed rule a credit union who has demonstrated their ability to successfully run a quality MBL program for 50 years would be assessed the same risk weight as a credit union who has recently decided to pursue this book of business. Also, the rule as it is currently proposed does not seem to take into consideration credit unions which have been granted waivers to exceed the current MBL limit. These credit unions were formed to serve the unique needs of an agricultural community. Many of these credit unions have already developed significant capital cushions to survive downturns that occasionally affect rural communities. The current weightings for MBL's outlined in the proposed rule penalize these credit unions that were formed to serve the unique needs of their community.

Investments in CUSO's

The proposed 250% risk weighting placed on a credit union's investment in CUSO's fails to take into consideration the credit unions purpose for forming the CUSO and intended business model. Not all CUSO's are created equally. For example, a CUSO that is created for the sole purposes of developing a shared branch with another credit union would have a completely different risk profile and than a wholly owned CUSO that was formed to originate MBL's. A credit union that is creating a CUSO to form a shared branching relationship is already looking for a way to mitigate their risk. Shared branching is an endeavor that is unique to credit unions in the financial services industry. It would seem illogical to penalize credit unions for this innovative strategic plan which is designed to mitigate risk.

Asset Size Threshold

The current $50M asset threshold appears to be too low and not reflective of credit unions engaging in "complex" activities. We would recommend this threshold be increased to $500M to be more consistent with credit unions engaging in complex activities.

Implementation Time Frame

The current implementation time frame of 18 months does not appear to be realistic considering the magnitude of strategic decisions that will need to be made by credit unions. Credit unions will be faced with significant decisions related to the products and services they offer as well as their overall business model. If a credit union decides to discontinue a certain line of business, it could take them several years to accomplish this depending on possible contractual obligations. We would recommend at least a 36-month implementation period to give credit unions adequate time to adjust to the new rules.

Conclusion

KDCU would like to once again thank NCUA for this opportunity to offer comments on the proposed changes to PCA and risk-based capital requirements. We look forward to working cooperatively with NCUA in the continued development and implementation of the proposed rule.

Sincerely yours,

for John P. Smith

John P. Smith, Administrator

Cc: Kansas Credit Union Council
NASCUS