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National Credit Union Administration  
Attn: Gerald Poliquin  
1775 Duke St.  
Alexandra, VA 22314-3428

Dear Mr. Poliquin:

Thank you for the opportunity to comment on the National Credit Union Administration's (NCUA's) proposed changes to NCUA Rules and Regulations Parts 700-703; 713, 723, and 747, regarding prompt corrective action and risk-based capital. The North Dakota Department of Financial Institutions ("department") has long been concerned about the lack of a meaningful Risk Based Capital regulation for credit unions. Further, the department recognizes the confusion created by having a risk based capital calculation for credit unions that differs from that of the Federal banking regulators. We appreciate the effort put forth by the NCUA to update the current risk based capital requirements; however, we do have concerns with regard to portions of the proposed rule (addressed below). Also, we appreciate the creation of the Proposed Risk Based Capital Calculator; while an estimate, the calculator has been a valuable tool to help the industry understand the effects of a complicated regulation on their credit union. This calculator adds a great deal of clarity to the process.

While we agree with the premise of using a Basel III style capital model, we are concerned that notable differences continue to exist between this proposal and the risk based capital regulation recently implemented by the Federal banking regulators. While the risk weightings for a number of asset categories are substantially different than those utilized by the Federal banking regulators, it is the proposed risk weight for member business loans that is of particular concern for our department.

### **Member Business Loans**

The proposed risk weights for member business loans (MBLs) vary depending on the volume of MBLs on the balance sheet of the credit union. It appears that this is designed to capture concentration as well as other risks within the risk based capital ratio. While we agree that concentration risk requires a higher level of capital, it appears as though NCUA is now penalizing credit unions which currently have the ability to exceed the 12.25 percent cap. As you are well aware, certain credit unions have been allowed to exceed the 12.25

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percent cap with the approval of NCUA either through the low income designation or by demonstrating to the NCUA that the charter they were granted intended that the credit union engage in member business lending. In North Dakota, a number of our credit unions were chartered for the purpose of member business lending, particularly agricultural lending. My concern lies in the fact that credit unions are not given an appropriate amount of time in which to meet the increased capital levels for member business lending. In my opinion, an 18 month window is insufficient for credit unions, which are operating under the NCUA's low income designation or exemption for credit unions chartered to primarily engage in member business lending, to meet the increased capital levels. The only way these credit unions would be able to meet this requirement would be to drastically restructure their balance sheet, which would have adverse effects on the credit union. I believe that these credit unions, which were previously allowed to exceed the 12.25% cap, should be granted more time to meet these increased capital requirements.

**Phase In Period**

As stated earlier while the Department agrees that capital levels need to be commensurate with the risk within the balance sheet, we are concerned with the limited phase in period of 18 months. As you are aware, credit unions have a limited ability to raise capital through means other than retained earnings. This limitation is becomes especially problematic in the current interest rate environment. The Department encourages NCUA to consider a 60 month phase in period to achieve the well capitalized capital ratio.

Once again, we would like to thank you for the opportunity to comment on this proposal and for your efforts to improve the Risk Based Capital regulation.

Sincerely,



Robert J. Entringer  
Commissioner  
North Dakota Department of Financial Institutions

RJE: cjk