

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW

1700 BANK OF AMERICA PLAZA
300 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101

(702) 383-8888

FAX (702) 383-8845

lsc@lionelsawyer.com

www.lionelsawyer.com

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MICHAEL D. KNOX
ERIN FLYNN
JENNIFER ROBERTS
MATTHEW R. POLICASTRO
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JON R. COLLINS
(1923-1987)

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LINDA M. BULLEN
LAURA J. THALACKER
DOREEN SPEARS HARTWELL
LAURA K. GRANIER
MAXIMILIANO D. COUVILLIER III

OF COUNSEL
RICHARD J. MORGAN*

*ADMITTED IN CA ONLY

WRITER'S DIRECT DIAL NUMBER
(702) 383-8916
RBRYAN@LIONELSAWYER.COM

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

RE: Comments on Proposed Rule: PCA – Risk-Based Capital

Dear Mr. Poliquin:

As a member of the United States Senate Banking Committee at the time at which the Federal Credit Union Act was amended to require NCUA to implement a system of prompt corrective action, I am writing you regarding the Board's proposed rule on risk-based capital. Since leaving the Senate I have had the privilege of working with the credit unions on legislative issues.

I strongly support appropriate capital standards for credit unions, which is why I was pleased to work on and vote for the Credit Union Membership Access Act (CUMAA) in 1998. CUMAA imposed a system of prompt corrective action on credit unions to protect the National Credit Union Share Insurance Fund from losses. I understand the proposed rule is designed to update the credit unions' risk-based capital standards; however, I am concerned about the proposed rule's potential impact on credit unions in my home state of Nevada and that the NCUA may be exceeding the authority that Congress extended through CUMAA.

Nevada credit unions were significantly impacted by the recent financial crisis, but they appear to be recovering. While the size by assets of Nevada's credit unions is still lower than pre-crisis levels, the system has grown in each of the last two years, and Nevada credit unions have returned to pre-crisis return on assets levels. Moreover, delinquencies and loan charge offs are stabilizing. It is important that the recovery of Nevada's credit unions not be hindered by unnecessary regulatory burden. To the extent that the proposed rule could reduce credit

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availability from Nevada's credit unions, I am concerned. The last thing we need is for otherwise healthy financial institutions to have their ability to lend impeded by regulation.

I am also concerned that if the proposed rule were finalized in its current form, the NCUA would be exceeding its authority under the Federal Credit Union Act. Congress was clear in CUMAA to direct NCUA to develop a risk based capital standard to take into account risks that the adequately capitalized standard in statute did not. That is why we directed, "The Board shall design the risk-based net worth requirement to take account of any material risks against with the net worth ratio required for an insured credit union to be adequately capitalized may not provide adequate protection." (12 U.S.C. 1790d(d)(2))

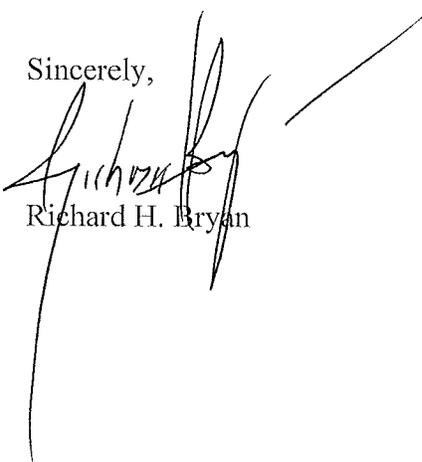
However, the proposed rule would apply a risk-based capital standard to determine whether a credit union is well capitalized. This is, at best, inconsistent with what we intended when we created the credit union version of prompt corrective action in 1998.

The prompt corrective action regime in CUMAA is modeled after the bank version that was in place at the time, but it also included significant differences that reflect the unique nature of credit unions. For example, CUMAA codified leverage ratios for credit unions to be determined well capitalized and adequately capitalized, and these thresholds were set significantly higher than the threshold for banks. It was because of these higher thresholds that we did not convey to the NCUA the authority to set a risk-based standard for the determination of whether a credit union is well-capitalized.

If the NCUA feels that it needs to set a risk-based standard to determine whether a credit union is well-capitalized, it is clear to me that the Board will need to go to Congress to ask for that authority. Under current law, however, I believe the proposed rule exceeds the authority that my colleagues and I in Congress at the time conveyed.

When finalizing this rule, I urge the Board, consistent with the expressed intent of Congress, to apply the risk-based standards to capital adequacy. Thank you very much for considering my views on this matter.

Sincerely,



Richard H. Bryan