FIRSTMARK
Credit Union®
Great with people. Great with money.

April 9, 2015

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

Via e-mail: regcomments@ncua.gov

RE: Comments on Proposed Rule: Risk-Based Capital

Dear. Mr. Poliquin,

Firstmark Credit Union (FMCU) appreciates the opportunity to submit comments on the National Credit Union Administration's (NCUA) proposed rule Risked Based Capital (RBC). FMCU is committed to being our member's first choice for innovative and convenient financial services.

FMCU is analyzing all aspects of the RBC proposal, its proposed effects on FMCU and the credit union industry. FMCU feels strongly that given how credit unions managed to remain strong through the worst financial crisis in the past 80 years or so, this rule is largely without merit. Furthermore, if the proposed rule is adopted as written, it will place an undue burden upon credit unions to comply. In fact, most affected credit unions would need to increase the amount of capital held in order to be well capitalized, and would likely face burdensome risk weightings that would serve as a disincentive to continue or enter into member business and mortgage lending programs, and long-term investments, inevitably pushing members to credit unions' competitors.

While we acknowledge some improvements in the risk weights from the original RBC proposal, we remain concerned with the overall regulatory approach taken by NCUA on RBC. In order to grow, credit unions need to free up capital and put it to strategic use. Many of the assigned risk weights are presented without any quantitative justifications through empirical data and instead seem to be adjusted higher or lower in hopes of reaching a happy medium without clear industry performance data as justification.

In our opinion, too much focus and weight has been given on the need to be comparable to other banking agency regulations. Credit unions are not banks and this regulation appears to be missing an opportunity to take a unique approach to risked based capital regulation of member owned credit unions and to emphasize that credit unions may be financial institutions but they are not banks. Member owned credit unions have a different risk model than profit oriented banks, so if anything credit unions should have a lower risk based capital requirement than banks.

CUSO Investment Risk Rating
The proposed risk rating for unconsolidated CUSO investments at 150% appears arbitrary. There has been no documentation of significant losses to the NCUSIF that were the result of CUSOs. There were losses related to lending risks that were taken, but this is operational risk and not investment risk.

Both federal and state chartered credit unions are limited by either statute or regulation to the maximum aggregate investment in CUSOs. Based on 2014 call report data, federally insured credit unions in total have only 17 basis points of their assets invested in CUSOs. This number includes fully consolidated CUSO investments. This data shows that only in the rarest of occasions will a credit union's unconsolidated CUSO exposures exceed 10% of their net worth. This is the definition of a non-significant investment.

It is not necessary to punish all CUSO investments through a regulatory risk weight. We believe a risk weighting of 100% for unconsolidated CUSO investments is appropriate.

Mortgage Servicing Rights
Even though the revised proposal attempted to eliminate the interest rate risk (IRR) component, weighting Mortgage Servicing Rights (MSR) at 250% is penalizing credit unions for eliminating IRR on their balance sheet by selling longer-term fixed-rate real estate loans. For credit unions that have taken a conservative approach to the valuation of MSRs, a proposed risk weight of 250% may lead to a more aggressive approach.

NCUSIF
The revised proposal still fails to defend the NCUSIF and treat it as having value. If a credit union decides to disband, sell the assets and return the deposits, assuming par or better, the NCUSIF deposit will be returned. The NCUA would not hand over the deposit in a stressed environment, but it is nonetheless members' capital. The proposal implies that the deposit is worthless and should be expensed versus the current method of capitalizing the deposit. This deposit is a key tool in how the credit union industry attempts to manage risk.

Other areas of concern
There are several other areas that we believe need to be addressed within the proposed rule or at least in concert with the proposed rule:

- The proposed rule still does not address supplemental capital. The proposed rule will result in many credit unions needing additional capital without any new means of raising it.
- This proposed rule is more punitive than Basel due to over emphasis on concentration risk and interest rate risk.
    - No credit is provided for established historical performance in mortgage loans or MBL asset categories. Risk weighting in this area is primarily concentration based and there are no mitigating factors for LTV, credit rating or performance.

Conclusion
We believe that Firstmark Credit Union would remain well capitalized in the proposed system, but our capital cushion would shrink. The credit union is experiencing good profitable growth currently and we are concerned that any potential shrinkage in our capital cushion could force us to take actions to limit this growth. This would be a detriment to our members and future members. FMCU appreciates the value of a financial institution's capital as a key source of funding that can be readily deployed to shore

up a balance sheet under duress and the need for regulatory oversight. In that spirit, we are asking NCUA to carefully weigh the comments received and to pursue the appropriate amendments to this rule that will ensure a viable, well-balanced risk-based capital system is implemented.

Thank you for the opportunity to comment on the proposed rule Prompt Corrective Action – Risk-Based Capital. If you should have any questions, please contact me at ewinge@firstmarkcu.org or 210-308-7800.

Sincerely,

Leon Ewing
President/CEO

Cc: Deborah Matz, Chairman
Richard Metsger, Vice Chairman
J. Mark McWatters, Board Member