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April 15, 2015

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

Re: Second Proposed Rule on Risk-Based Capital and Request for Comment – RIN 3133-AD77

Dear Mr. Poliquin:

Bellco Credit Union ("Bellco") is pleased to submit this comment letter in response to the second proposed rule that would amend NCUA's current regulations regarding prompt corrective action to require credit unions that take certain risks, hold capital commensurate with those risks (the "Revised Proposed Rule")[1].

As a general concern, Bellco does not believe that the NCUA has the authority under the Federal Credit Union Act[2] (the "Act") to implement a "risk-based requirement under a graduated (multi-tiered) capital category framework."[3] The NCUA is taking great liberty with its interpretation of §1790d of the Act just to incentivize credit unions "to build and maintain capital as they increase risk to be able to absorb any corresponding unexpected losses," as well as "to hold sound levels of capital without invoking supervisory action before necessary."[4] Although it is clear the NCUA is promoting this incentive-based approach as a drastic reaction to the recent financial crisis[5], the NCUA must be mindful to stay within the boundaries prescribed by Congress in the Act, and not further burden credit unions with complex regulations that can have a detrimental impact on the services credit unions are able to provide to their members.

As a specific issue, we would like to concentrate on the revised requirement that unconsolidated equity investments in a CUSO should be risk-weighted at 150 percent, rather than at 100 percent. The NCUA argues that these investments are analogous to "an investment in a non-publicly traded entity,"[6] because "an equity investment in a CUSO is an unsecured, at-risk equity investment (first loss position)."[7] Although there may be some merit to the analogy, the risk-weighting for these types of investments may be misguided. The NCUA goes on to state that the Original Proposal was derived from a review of the FDIC's capital treatment of bank service organizations, which happens to be very complicated, according to the NCUA. Nonetheless, there is one concept in the FDIC's regulations that is applicable in this scenario. If the total investment is "non-significant" (i.e., less than 10 percent of the institution's total capital), the entire amount receives a risk weight of 100 percent.

[1] *See*, 80 F.R. 4339 (January 27, 2015), National Credit Union Administration: "Risk-Based Capital; Proposed Rule"
[2] 12 U.S.C. §1751 et seq.
[3] 80 F.R. 4339, *supra* at 4376.
[4] *Id.*
[5] *Id.*
[6] *Id.*, at 4400.
[7] *Id.*

The NCUA has taken the position that coming up with "a simplified risk weight approach is more appropriate,"[8] and Bellco is in agreement. We suggest including two levels of risk-weighting. If the investment in a CUSO is "non-significant," the investment should receive a risk weight of 100 percent. If the investment in a CUSO is "significant," the investment should receive a risk weight of 150 percent. Based on the CUSO rule's investment limit of "1% of its paid-in and unimpaired capital and surplus,"[9] few, if any, CUSO investments should fall into the "significant" investment levels (i.e., 10 percent or more of the institution's total capital). This would also account for federally insured, state-chartered credit unions that may have less stringent investment limitations.

Because the NCUA has employed alternative means to limit a credit union's exposure to loss from an investment in a CUSO by virtue of its investment limits, we can find no supportable rationale for requiring more than a 100 percent risk weighting for a credit union's investment in a CUSO if the investment is "non-significant."

Sincerely,

Dan Kampen

Dan Kampen
Executive Vice President/Chief Financial Officer

[8] *Id.*, at 4401
[9] *See* 12 C.F.R. §712.2(a)