

April 9, 2015

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

Re: Comments on Proposed Rule – Risk-Based Capital (RIN 3133-AD77)

Dear Mr. Poliquin:

I am writing on behalf of SchoolsFirst Federal Credit Union, which serves school employees and their families in Southern California. We currently have more than 640,000 Members and \$11.1 billion in assets. SchoolsFirst FCU appreciates the opportunity to once again provide comment and feedback to the NCUA with regards to the regulation, requirements and terms, within the second Risk-Based Capital Proposed Rule. We would like to address the following areas of concern and thank the NCUA in advance for taking into consideration our recommendations.

Statutory Permissibility of a Two-Tiered Risk-Based Capital System

The NCUA's proposal includes a higher risk-based capital requirement for a credit union to be "well-capitalized" compared to the proposed requirement for adequately capitalized credit unions. The Federal Credit Union Act (12 U.S.C. 1790d) requires that the NCUA tie risk-based requirements to the sufficiency of a credit union's net worth for the classification of "adequately capitalized" only. However, under this proposal, the NCUA would subject well-capitalized credit unions to risk-based capital requirements that are 2.0% of risk assets greater than those being proposed for adequately capitalized credit unions. While we have not conducted our independent legal review of this issue, I understand that some have determined that such a result is not permitted by federal law.

Additionally, the express language of Section 301 of the Credit Union Membership Access Act (Pub. L. No. 105-219) unequivocally grants the NCUA the authority to create a single risk-based net worth requirement for complex credit unions, not two separate requirements. The Act directs the NCUA to "design the risk-based net worth requirement to take account of any material risks against which the net worth ratio for an insured credit union to be adequately capitalized may not provide adequate protection." The Act makes no mention of the "well-capitalized" standard nor does it authorize the NCUA to create anything other than a single standard.

In looking to legislative intent, when Congress passed the prompt corrective action (PCA) section of the Federal Credit Union Act, it recognized that credit unions were subject to a higher Tier 1 simple net worth ratio requirement than banks. Since the Tier 1 requirement for credit unions to be well-capitalized (7% of total assets) is significantly higher than the 5% requirement for banks, Congress apparently recognized there was no need for a well-capitalized risk-based requirement on credit unions to supplement their net worth requirement for being well-capitalized. To this end, Section 1790d(e)(2) of the Act sets forth a mechanism under which credit unions that meet the definition of being “adequately capitalized” are required to continue building capital until they ultimately meet the “well capitalized” classification.

Should the NCUA Board vote to finalize a risk-based capital rule despite the legal and cost implications discussed above, SchoolsFirst FCU has additional concerns with the proposal that we would respectfully request be addressed in any final rule that may be issued:

Definition of “Complex” Credit Union

The NCUA has presented multiple definitions for “complex” credit unions through different NCUA rules. This proposed rule defines a “complex” credit union as one that is over \$100 million in assets while other rules, such as the derivatives regulation, define “complex” as \$250 million. We believe it is imperative and significant for NCUA to align their definition of a “complex” credit union across all NCUA regulations. We propose, at a minimum, for the NCUA to increase the threshold from \$100 million to \$250 million for risk-based capital rules in order to mirror the derivatives regulation.

Residential Real Estate Loans

We do not agree with First and Second lien concentration components of the proposal and strongly suggest the NCUA’s rulemaking mirror the FDIC rules in order to not place credit unions at a competitive disadvantage compared to banks. The NCUA should also consider lower risk weightings for those loans with private mortgage insurance and/or government guarantees.

Mortgage Servicing Assets

The current rule defines Mortgage Servicing Assets and applies a risk-weight of 250%. We suggest that the NCUA also provide a definition for any auto or credit card servicing assets and propose applicable risk-weight percentages accordingly.

Derivative Risk-Weights

The risk-weighted calculations for derivatives, as proposed by the NCUA, are too complicated and convoluted. Derivatives, per GAAP, are fair valued daily, monthly,

quarterly and yearly and reflected as an asset or a liability, while their impact runs through earnings or equity. Therefore, we request that the NCUA apply a much simpler formula to assess risk based capital (i.e. using a credit conversion factor to the notional amount and then applying a risk-weighted factor).

Definition of Total Assets

The proposed rule allows for credit unions to elect one of four measures to define "Total Assets." This proposal will create inconsistency as to how risk-based capital results are reported and will hinder comparability among credit unions. We suggest that credit unions' total assets be measured by the average of quarter-end balances of the current and three preceding calendar quarters.

Definition of Unfunded Commitments

The proposed rule does not provide a clear definition of unfunded commitments. We suggest that the NCUA define specifically unfunded commitments. For example, it is unclear whether a credit union real estate loan pipeline or outstanding auto loan convenience checks would be classified as unfunded commitments.

Assets at Fair Value-Risk Weights

Credit unions have assets on their books at fair value; the change to fair value is accounted for via either the Profit and Loss statement or via Other Comprehensive Income (OCI). We suggest that NCUA clarify the application of the risk weight in these assets when a component of their book value has already been impacted capital via earnings or OCI.

Thank you for the opportunity to comment on this proposed rule and for considering our feedback and comments regarding the new terms and requirements within the Risk-Based Capital Proposed Rule.

Sincerely,



Bill Cheney
President/CEO
SchoolsFirst Federal Credit Union

Cc: Credit Union National Association (CUNA)
California/Nevada Credit Union League (CCUL)