April 16, 2015

To: regcomments@ncua.gov

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 CUNA CFO Executive Committee and Chairman of the CFO Council Regulatory Committee, I am writing this comment letter on behalf of the CUNA CFO Council and its 1,300 credit union members nationwide. The Council appreciates the opportunity to comment on the National Credit Union Administration (NCUA) Board's second proposal to revise Prompt Corrective Action related to Risk-Based Capital. The Council would first like to thank the NCUA for listening to the first round of comments and for improving the risk weighs for RBC2 and for lowering the RBC requirement for well-capitalized credit unions from 10.5% to 10.0%.

However, the question still remains as to whether separate RBC requirements for well-capitalized and adequately capitalized credit unions are permissible under the Federal Credit Union Act Section 216(d) as pointed out by NCUA Board member J. Mark McWatters's. There is no evidence that risk based capital requirements, utilized by the banking regulators, work any better than the net worth requirements currently imposed by the NCUA. Banks have had risk-based capital requirements for nearly 25 years and these requirements neither prevented the latest crisis in 2007 nor stopped significant failures in the banking system.

The credit union industry emerged from the Great Recession of 2007 in strong financial condition despite the burden to recapitalize the NCUSIF. Most credit union failures, including the Corporates, were the result of high concentration levels in risky loans and investments that probably should have been identified in the examination process. Maybe the NCUA should focus on enhanced training to improve examiner skills instead of implementing burdensome risk-based capital standards on credit unions.

If the NCUA must move forward with this rule, the following are the comments that the CFO Council is asking the NCUA to consider in developing the final version.

1. **Investments in CUSOs should be risk weighted at 100 percent as opposed to 150% under the Proposed Rule.**

The risk weights for CUSO investments remains too high and could affect a credit union's ability to own and operate CUSOs. Credit unions have been actively involved with lending and operational CUSOs for years. Involvement with these CUSOs has increased credit union profitability by contributing to increased loan production and by helping to reduce operating expenses while improving the member experience. A credit union's exposure is limited to its investment in the CUSO. The NCUA already limits a credit union's investment in CUSOs, under NCUA Rule 712.4, so it makes no sense to impose a 150% risk weighting on CUSO investments. The Council is very concerned that the inflated risk weighting on CUSO investments may hinder collaboration among credit unions at a time when such collaboration is vital to the future success of the industry. Many credit unions are looking at CUSO relationships as a way to consolidate functions in an effort to reduce operating expenses and to offset declining net interest income and non-interest income levels. The CFO Council believes CUSO investments should be risk weighted at no more than 100%.

2. **Mortgage servicing rights risk weighting at 250% is excessive.**

Mortgage servicing rights are recorded in accordance with Generally Accepted Accounting Principles and pose minimal risk to the balance sheet. The 250% weight is likely to produce several undesirable outcomes as it will cause some CUs to embrace more IRR as they portfolio long-term loans that otherwise would be sold and it will cause some CUs to simply cease offering the longer-term mortgage products members want (with negative economic consequences). Selling mortgages allows the credit union to provide mortgage products to our members while at the same time eliminating interest rate risk from the balance sheet, a primary concern of the NCUA.

3. **Consideration should be given to permit federally insured credit unions to offer supplementary capital.**

Credit unions remain the only financial institutions that do not have access to sources of capital beyond retained earnings. If higher capital standards are to be imposed on the credit union industry under the Proposed Rule, affording credit unions the ability to raise supplementary capital that counts towards the net worth requirements seems to be an appropriate policy or legislative change consideration.

4. **The NCUSIF deposit should not be deducted from the risk-based capital numerator.**

The National Credit Union Share Insurance Fund 1% deposit is being ignored in the risk-based capital calculation. The NCUSIF deposit is a valid asset that can be refunded for various reasons including conversion to a bank or savings institution charter, a credit union electing private insurance instead of NCUA or voluntary liquidation. In addition, the deposit can specifically be attributable to a failed credit union providing an additional buffer against NCUSIF losses in addition to the failed credit union's capital. By deducting the NCUSIF deposit from assets and equity, it implies the deposit itself has no value. If one of the primary objectives of the Rule is to identify risks to the share insurance fund, then deducting the deposit implies a market value of zero – which is clearly NOT the case

5. **Eliminate the expiration date of January 2025 for the provision that allows a credit union to factor goodwill resulting from a supervisory merger into its RBC calculation.**

Credit unions are often asked by the NCUA to consider supervisory mergers in an effort to protect the insurance fund and to offer a credit union solution to the members of a troubled institution. Allowing the acquiring credit union to factor in goodwill, resulting from a supervisory merger, into its RBC calculation contributes to the financial business case for executing the merger. Eliminating the provision in 2025 could negatively impact the acquiring credit union's decision to execute a supervisory merger.

6. **Eliminate the requirement in the new proposal that a covered credit union must maintain capital commensurate with the level and nature of all of its risks and must have a process to determine its capital adequacy in light of its risk and a comprehensive written strategy to maintain "an appropriate level of capital".**

The CFO Council is concerned that this proposed provision would allow for examiners to continually demand additional capital and potentially subject the credit union to additional scrutiny in regards to its capital level and capital plans.

In summary the CUNA CFO Council feels the Proposed Risk Based Capital Rule will increase costs to members, expand the right of the NCUA to interfere in the governance of credit unions through Prompt Corrective Action and threaten the financial stability of the industry in the long term. The Rule focuses on a regulator's model designed to identify concentration rate and not member needs, has the potential to override the Board's and Management's judgments on business strategy and risk and leaves credit unions vulnerable to examiner and Agency abuse due to the subjective nature of the rule. The Proposed Rule, in its current form, will most likely reduce the risks to the NCUSIF but at a significant cost to credit unions and their members through reduced returns, higher-costs and increased complexity of preparing the 5300 Call Report.

The CFO Council feels the current Proposed Rule will have negative effects on credit union members and discourage investments in long term strategies, necessary to the survival of credit unions. This will force credit union management to reshape the credit union's business model as it relates to long term investment, lending and expansion strategies, negatively impacting the member experience and making the credit union less competitive with banks and other competing financial institutions. The Rule will inhibit member growth and discourage credit unions from investing in branches and new technology.

In addition to RBC2, the CFO Council is gravely concerned about the possibility of a separate IRR Rule and believes the NCUA is heading in the wrong direction on this issue. IRR should be handled in the supervisory process only (as is the case with banks). We encourage NCUA to form an advisory group of CU leaders prior to the development of any new proposal on IRR.

Thank you for the opportunity to comment on the Proposed Rule and for listening to the Councils concerns. Please feel free to contact me with any questions or comments regarding the Council's comments on the Proposed Rule.

Sincerely,

Steven L. Arbaugh
Senior Vice President of Finance/Chief Financial Officer
SECU Maryland