American Eagle
Financial Credit Union

April 23, 2015

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

RE: NCUA's Risk-Based Capital Proposal
RIN 3133-AD77

Dear Mr. Poliquin:

American Eagle Financial Credit Union would like to take this opportunity to comment on the National Credit Union Administration (NCUA) Board's second proposed rule that would amend NCUA's current regulations regarding prompt corrective action (PCA) to require that credit unions taking certain risks hold capital commensurate with those risks.

<u>Summary</u>

In an effort to be brief and to the point, our comments are directed at four major points:

1. The application of Risk-Based Capital rules has not produced the intended benefits of resolving problems to protect the federal deposit insurance agencies.
2. The application of the new regulations could result in more stringent treatment based on other supervisory criteria, a violation of 12 U.S.C.1790d (h)1.
3. NCUA has grossly underestimated the financial impact of the changes to core operating systems and financial reporting requirements.
4. The Federal Deposit Insurance Corporation (FDIC) is in the process of working with Congress to change the Prompt Corrective Action law that allows, under certain conditions, banks with a simple net worth calculation of 10% be exempt from the more complex risk weighted ratios required under BASEL.

<u>General Comments</u>

1, In section **III. Summary of the Original Proposal and this Second Proposal**, sub-section *A*, *The Important Role of Capital*, it quotes the following: "Banks, in particular, experienced an elevated number of failures and the need for federal intervention in the form of capital infusions." The application of risk-based capital requirements in the banking industry did not prevent the near collapse of the financial services industry. In sub-section *B*, *Why did the Board issue the Original Proposal?* it was noted that in 2013, the Other Banking Agencies' issued final rules materially updating the risk-based capital requirements. While these Other Banking Agencies changed their rules within the guidelines of U.S.C 1831o, the law did not change and provided for (1) a leverage limit, (2) a risk-based capital requirement and (3) the authority to establish any additional relevant capital measure. The explicit authority to apply a risk-based capital measure has proven to be ineffective.

2. The Act makes several references to the required minimum level for the leverage limit and does not expressly empower the NCUA to adopt the other capital measures as noted in 12 U.S.C. 1831o(c)(1)(B). There are many points to be made by others on the legality of NCUA's interpretation of the Federal Credit Union Act. However, the application of the new risk-based capital rules could cause some credit unions to be reclassified

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in to a lower net worth category. In U.S.C. 1760(h) it states that with respect to the exercise of authority by the Board under regulations comparable to section 1831o(g) of this title – (1) the Board may not reclassify an insured credit union in to a lower net worth category, or treat an insured as if it were in a lower net worth category. The proposed regulation requires both a net worth and risk-based capital requirement that could cause a credit union to be reclassified in to a lower category, a violation the Act.

3. The estimated average cost of $1,276 per credit union is grossly underestimated. The fact that the new rules include an extended implementation period of almost four years doesn't line up with the estimated one-time policy review and estimate of 40 hours.

4. The front page of the Sunday Business section of the New York Times on April 19, 2015 headline reads, Rule Relief For Banks At Low Risk. The article reports that "…banks that have at least 10 percent of total assets in shareholder equity, an FDIC analysis shows, have a lower rate of failure than their brethren and are less likely to require government assistance". The article describes a reform proposal put forward by Thomas M. Hoenig, vice chairman of the Federal Deposit Insurance Corporation (FDIC). Mr. Hoenig is quoted as follows: "From our point of view, a bank that meets the 10% threshold of equity to assets and that doesn't have trading or off-balance sheet items, that's a well-capitalized bank. And yet, they have to go through this burden doing these Basel calculations to prove they're not undercapitalized". The article goes on to report that "This clean and simple capital ratio cannot be gamed as more complex, risk-weighted ratios can be". In closing Mr. Hoenig is quoted as follows: "For the vast majority of commercial banks that stick to traditional banking activities in a safe and sound manner with sufficient capital reserves, the regulatory burden should be eased".

Thank you for the opportunity to comment on this proposed regulation. We cannot support the proposed changes as they will not resolve problems to protect the Fund, impose greater constraints on our ability to serve the membership, increase costs unnecessarily and are counter to the trends of other "comparable" regulatory agencies.

Sincerely,

Dean Marchessault

Dean Marchessault
President & CEO