Fairfax County Federal Credit Union

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April 24, 2015

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

Submitted via e-mail to: regcomments@ncua.gov

Re: Comments on NCUA Notice of Proposed Rulemaking (Prompt Corrective Action; Risk-Based Capital) RIN 3133-AD77

Dear Mr. Poliquin:

This comment letter represents the views of Fairfax County Federal Credit Union regarding NCUA's revised risk-based capital proposal. Fairfax County Federal Credit Union is federally chartered, CDFI and Low-Income credit union serving the financial needs of those in Fairfax County Virginia and the surrounding area with deposit and loan services through 6 facilities. We have served the financial needs of our 14,500 members for over 57 years and with their support have accumulated nearly $300 million in assets. Our goal is to be the financial institution of choice to all those in our market. Our credit union responded in May of 2014 to the agency's first proposal on this issue. In doing so, we expressed a number of concerns. We opined that the risk-weights assigned by NCUA to mortgage loans and member business loans were excessive, that the agency lacked sufficient justification in proposing the rule given the financial performance and solvency of credit unions in general, and that the proposed implementation period was unreasonable. We recommended that NCUA should withdraw the proposed rule. We appreciate that NCUA has addressed a number of our concerns and those expressed by the industry in approximately 2000 comment letters. However, we still believe the proposed rule is still unnecessary and inherently punitive and subsequently hinder credit union growth by limiting credit unions' ability to serve people of modest means. We believe the revised rule remains flawed and will have the unwanted effect of driving low and moderate income consumers into the arms of check cashers, payday lenders, car title lenders and other less or non-regulated entities. Our comments are highlighted below.

<u>Lack of justification and authority</u>

Credit unions and the National Credit Union Share Insurance Fund (NCUSIF) have performed well under current PCA rules. There is no need to overhaul credit union capital requirements.

According to the national credit union association (CUNA), from 2008-2012 the NCUSIF fund balance never fell below its historical range of 1.2 to 1.3% of insured deposits. Further, the stability of the fund only required two premium payments of 24 basis points combined in 2009 and 2010. In imposing "bank-like" risk-based capital standards, NCUA ignores the cooperative structure of not-for-profit, member-owned credit unions.

It is my belief that at a minimum, the NCUA should peg any risk-weighted system to the statute's adequately-capitalized level of 6% versus the proposal which uses the well-capitalized level of 7%. There is legitimate debate as to whether the agency has exceeded its legal authority to implement a risk-based capital requirement for a credit union to be well-capitalized. The Federal Credit Union Act expressly directs NCUA to connect risk-based requirements to the adequately-capitalized classification.

An overarching concern is how the results of the capital adequacy assessment will be used in the exam process and in determining a credit union's capitalization classification. I believe the intended regulatory use should be clearly articulated to the industry and the exam staff prior to becoming regulation.

Determining "complexity" goes beyond asset size

Acknowledging that the revised proposal raises the determining factor of "complexity" from $50 million to $100 is a step in the right direction. Being $100 million in assets doesn't automatically make a credit union complex. Rather the characteristics imbedded within an institution's portfolio as assets and liabilities should determine complexity.

Assuming NCUA adopts a specific asset level to determine credit union "complexity" the question remains: If each complex credit union will be required to quantify its unique risks and to maintain adequate capital to support those risks, all of which is to be supported by a written strategy, then why impose standard measures that ignore those unique risks and complexities?

Risk-Weights improved under revised proposal but still an issue

While the agency has made a number of positive changes to proposed risk weightings, I believe the following risk weights remain too high and do not take into account the term or interest rate structure of these loans:

- First lien residential mortgage loans over 35% of assets would have a risk weight of 75% versus the 50% measure used for banks.
- Certain real estate loans over 20% of assets would also have higher risk weights than those provided in bank regulation.
- Commercial loans over 50% of assets would have a risk weight of 150%, as opposed to the weighting for banks being as low as 100% in some instances.

Additional suggestions

1. NCUA should permit the use of secondary capital in meeting risk-based capital requirements. Further, the agency should pursue legislation that would authorize the use of supplemental capital as net worth under PCA.

2. NCUA should not proceed with a separate interest rate risk rule. Interest rate risk is being supervised today under agency guidance.
3. All previous supervisory goodwill should be grandfathered without time constraints in calculating the risk-based capital ratio.

In closing, we thank you for listening to our concerns and the dialog resulting from the original risk-based proposal. Again, we appreciate the opportunity to respond and provide comments on this proposed rule. Respectfully, we continue to ask that the proposal be withdrawn in its entirety. Absent that, we urge NCUA to address our remaining concerns.

Sincerely,

Joseph D. Thomas, Jr.

Joseph D. Thomas, Jr., CUDE
President/CEO

Cc: Credit Union National Association
Virginia Credit Union League