



April 24, 2015

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

RE: Comments – Proposed Rule: Risk Based Capital

Dear Mr. Poliquin:

I am a member of and the Vice President – Risk Management of ABNB FCU. ABNB is a \$506M credit union with 17 branch offices serving 55,404 members in a community located in Southside Hampton Roads and parts of Northeastern North Carolina. ABNB currently exceeds both the statutory and the proposed risk based capital thresholds to be considered well capitalized. ABNB is clearly not one of the outliers that NCUA is concerned about. This second proposal represents an improvement over the previous proposal, yet there is still room for improvement. Risk Based Capital is a concept that credit unions should embrace. However, it is a concept that should reflect the uniqueness of credit unions as contrasted with banks. Comparability with bank risk based capital standards hinges on more than comparable risk categories and weights; it is also about comparable access to capital and comparable consumer access to credit union membership. The huge question of whether or not NCUA has the authority to mandate a two tier capital requirement remains of questionable legality as suggested by NCUA Board Member Mark McWatters remains to be adequately addressed. For these reasons I object to implementation of the Proposed Risk Based Capital Rule even in this revised format. Several areas of concern follow.

WELL CAPITALIZED THRESHOLD AND PCA

The Risk Based threshold to be well capitalized is proposed at 10% while the congressionally mandated threshold to be well capitalized is statutorily set at 7%. The 300 BP difference between the two could be construed as the risk buffer that many credit unions sought to maintain above the statutory threshold and one often promoted by examiners. This begs the question of the appropriateness of such a buffer under the Risk Based rule, since risk would have already been accounted for. Further at what point could a credit union expect an examiner to criticize declining capitalization albeit supported by an appropriate business plan and yet still be above either threshold? And, ultimately which threshold would apply for PCA?

COMPLEX CREDIT UNION THRESHOLD

Under the current rule, credit unions are considered complex and subject to the risk-based net worth requirement only if they have quarter-end total assets over \$50 million *and* they have a risk based net worth requirement exceeding 6%. Under this Risk Based Capital proposal a complex credit union is simply defined using a single asset size threshold of \$100 million as a proxy for a credit union's complexity. This threshold is understandable and likely applicable for smaller credit unions but may leave a group of medium sized credit unions with an undeserved complex label. I would propose that

medium sized be defined as greater than \$100 million to \$1 billion. For these medium sized credit unions it may be more appropriate to consider a credit union's portfolios of assets and liabilities and actually determine their level of complexity.

PROHIBITIVE COST OF RISK BASED CAPITAL

When adopted, this proposal would impose astronomical costs on the credit union movement. NCUA has estimated that this proposal will cost credit unions roughly \$5.1 million to read the rulemaking and review it against their current policies. NCUA also projects that it will cost \$3.75 million for the agency to adjust the Call Report, update its examination systems and train internal staff to implement the proposed requirements. NCUA also estimates credit unions would incur an ongoing \$1.1 million expense to complete the adjusted Call Report fields. NAFCU has projected that credit unions' capital cushions (a practice encouraged by NCUA's own examiners) will suffer a \$490 million hit if NCUA promulgates separate risk-based capital threshold for well capitalized and adequately capitalized credit unions (a "two-tier" approach). Specifically, in order to satisfy the proposal's "well-capitalized" thresholds, today's credit unions would need to raise an additional \$760 million. On the other hand, to satisfy the proposal's "adequately capitalized" thresholds, today's credit unions would need to raise an additional \$270 million. Despite NCUA's assertion that only a limited number of credit unions will be impacted, this proposal would force credit unions to hold hundreds of millions of dollars in additional reserves to achieve the same capital cushion levels that they currently maintain. These are funds that could otherwise be used to make member loans or their small businesses and aid in our nation's economic recovery. Once implemented, the costs continue. At ABNB our plan calls for growing mortgages from 7% of assets to 12% by the time this risk based capital proposal would be implemented, well below the 35% threshold. Under the proposal this growth in mortgage lending will result in 6 BP per year having to be held in capital rather than being returned to our members.

CUSO EQUITY INVESTMENT RISK WEIGHT

The proposed rule weights CUSO equity investments at 150 percent. Under FDIC rules, equity investments that are less than 10 percent of a bank's capital are risk-weighted at 100 percent. FDIC characterizes such investments as "insignificant." Because NCUA already restricts federal credit unions to only investing up to 1% of their assets in CUSOs in the aggregate, credit union equity investments in CUSOs should be considered "insignificant" for the sake of the agency's risk based capital rules and be weighted at 100 percent as is done by FDIC.

CORPORATE PAID-IN CAPITAL RISK WEIGHT

The proposed rule would set a risk-weight for paid-in corporate capital at 150 percent. FDIC has no comparable asset category. NCUA appears to consider corporate paid-in capital as an extremely risky investment because there is no market for it and because a corporate credit union has to appeal to NCUA in order to return the capital to the credit union. In 2010, NCUA promulgated a comprehensive overhaul of the regulatory requirements governing the corporate credit union system, including imposing additional capital requirements, more restrictive investment limits, concentration risk prohibitions, and governance changes. In this proposal, NCUA should recognize how these stricter standards for corporates not only mitigate risks to natural person credit unions, but they also should protect the National Credit Union Share Insurance Fund from potential losses.

CONCENTRATION RISK COMPONENT IN MEMBER BUSINESS LOANS AND MORTGAGES

The concentration risk component for member business loans and mortgages (1st or 2nd lien) should be removed completely. Concentration risk is more appropriately evaluated as part of the examination process on a credit union by credit union basis.

TREATMENT OF GOODWILL

Goodwill on a credit union's books as of the date of the risk based rules implementation from any merger regardless of origin (either supervisory or voluntary merger) should continue to be included in the numerator of the risk based capital ratio and grandfathered indefinitely (as long as it is within GAAP). To do otherwise will likely decrease mergers and could possibly increase threats to the insurance fund.

ACCESS TO SUPPLEMENTAL CAPITAL

Supplemental capital was not addressed in this proposal. If or when risk based capital is implemented, I urge the NCUA to continue its efforts towards bank parity and provide access to supplemental capital for all credit unions. Without ready access to capital beyond retained earnings, credit union growth will be stifled.

FIELD OF MEMBERSHIP

Field of Membership was not addressed in this proposal. If or when risk based capital is implemented, I urge the NCUA to modernize Filed of Membership rules. Access to a vibrant source of prospective members is crucial to growing members and ultimately growing capital.

INTEREST RATE RISK

While interest rate risk controls have been removed from this proposal, it is our understanding that the NCUA is considering an additional rule focused solely on interest rate risk. We strongly believe that the Asset/Liability Management (ALM) requirements that are already in place, as part of the examination process, are more than adequate. Any additional rule would be unnecessary and unwarranted.

CALCULATING THE RISK BASED CAPITAL RATIO

NCUA is commended for increasing the amount of the Allowance for Loan & Lease Losses that may be included in the ratio. We strongly recommend the 1% National Credit Union Share Insurance Fund deposit be included in the capital ratio calculation; it is an asset on our books, is refundable if we converted to private insurance, and represents a key differentiator between the structure of the credit union insurance fund and the bank fund.

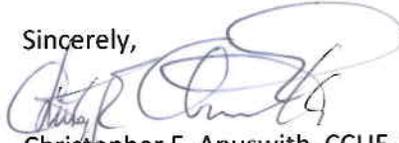
A SOLUTION IN SEARCH OF A PROBLEM

This risk-based capital proposal is a solution in search of a problem. Given the very strong performance of natural person credit unions and the NCUSIF during the recent financial crisis and Great Recession, especially compared to banks and the FDIC, there is no evidence that credit unions were undercapitalized, or that had this proposal been in effect, that there would have been any material reduction in insurance losses to the National Credit Union Share Insurance Fund. Further, although the Federal Credit Union Act directs the NCUA to devise a risk-based capital requirement that is comparable to the system in effect for banks, the FCUA also requires NCUA to take account of the unique nature of credit unions. This second risk based capital proposal continues to go way too far to address the first of these goals, at the expense of the second.

Thank you very much for the opportunity to comment on this proposed regulation. The issues we have highlighted above will have significant impact on the credit union movement and our ability to serve our members. We respectfully urge NCUA to address some of the recommended improvements to the proposal contained herein.

If I can be a source of any further information on this comment letter, please do not hesitate to contact me at canuswith@abnb.org or by phone at (757) 523-5387.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Anuswith", with a large, stylized flourish at the end.

Christopher E. Anuswith, CCUE, CUERM, NCCO
Vice President – Risk Management