OHIO CREDIT
UNION LEAGUE

April 24, 2015

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

Re: Risk-Based Capital – 12 CFR Parts 700, 701, 702, 703, 713, 723, and 747
RIN 3133-AD77

Dear Mr. Poliquin:

The Ohio Credit Union League (OCUL) appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) Proposed Rule on Risk-Based Capital.

OCUL is a state trade association and advocates on behalf of Ohio's 322 federal- and state-chartered credit unions, serving 2.8 million members. The comments reflected in this letter represent the recommendations and suggestions that we believe would be in the best interest of Ohio credit unions.

In examining this Proposed Rule on Risk-Based Capital, we would like to be unambiguous in regard to the following:

1. OCUL disagrees with and objects to NCUA's assertion that the rule is necessary;
2. OCUL disagrees with and objects to NCUA's assertion that the proposed rule will enhance safety and soundness;
3. OCUL disagrees with and objects to NCUA's assertion that a bank capital model is appropriate for use by financial cooperatives;
4. OCUL disagrees with and objects to NCUA's continued reliance on prescriptive rules over effective supervision and risk management techniques to control risk;
5. OCUL disagrees with and objects to NCUA's assertion that it has the legal authority under the Federal Credit Union Act to incorporate a two-tier risk-based capital system for the purposes of Prompt Corrective Action; and
6. OCUL asks that NCUA reject the proposed rule and conclude the unnecessary rule promulgation process in regard to risk-based capital.

In regard to the specific elements of this Proposed Rule on Risk-Based Capital, we have significant concerns that without the inclusion of a meaningful opportunity to employ supplemental capital by **all** credit unions, the rule will put credit unions at a competitive disadvantage in comparison with banks, who may readily tap into such funding sources. Additionally, the proposal as written would undermine the cooperative and diverse nature of credit union charters by creating a one-size-fits-all over-reaching capital formula. Finally, while the current proposal removes the previous interest-rate risk portions of the rule, we are concerned that NCUA has requested comment on adding those provisions as a separate rule in the future.

Supplemental Capital

The Risk-Based Capital rule proposed by NCUA only considers half of the risk-based system of capital management used by banks. Banks needing to rapidly improve capital ratios have three choices: (1) sell equity shares, (2) issue subordinated debt, or (3) shrink the balance sheet. For most credit unions, the only option is #3. Shrinking a balance sheet is a "scorched earth" strategy, but is the only remedy for a credit union that is required to adjust its capital ratio in response to challenging or changing circumstances. Selling assets into a down market turns paper losses into real ones. Worse, reducing assets impairs future revenue — the only source credit unions have for rebuilding reserves.

The retained earnings channel as a **singular** source of capital formation deprives credit unions of operating, financial, and regulatory nimbleness that is common to virtually all other financial market participants. Credit unions stand out as the only depository institutions in the U.S. without the ability to issue some form of capital instrument to augment retained earnings to build capital. All other U.S. depository institutions and most credit unions in other countries are permitted various forms of alternate or supplemental capital.

NCUA has voiced its support of supplemental capital in various ways and venues. While this is a step in the right direction, we suggest that NCUA incorporate supplemental capital into the risk-based capital structure beyond low-income credit unions. Further, implementation of the current proposal on Risk-Based Capital should be delayed until rules for supplemental capital for **all** credit unions can be implemented as part of a unified system of capital risk management.

Risk-Based Capital Should Be Used as a Model, Not a Rule

Credit unions serve diverse populations of members – a key characteristic and strength of the credit union movement. NCUA's proposed rule provides only a simplistic definition of a "complex credit union" as one which holds more than $100 million in assets.

This is a narrow view of how cooperative credit unions function and a remarkably imprecise means of defining "complex" as a foundational building block of a risk framework. Credit unions are formed by groups of individuals banding together to own a business that is designed to meet their financial needs. Using only an asset-size threshold fails to account for the portfolios of assets and liabilities of credit unions, as well as operational complexity and risk management capabilities unique to each credit union. Credit unions assess capital adequacy using factors that impact them locally, and these vary greatly and change rapidly. Individual credit unions respond to the complexity this creates; systemic rules universally-applied cannot. What works at an institutional level does not automatically scale up to the industry level.

Systemic rules like this proposal are invariably and necessarily simplistic and inflexible. They ignore a multitude of differentiating factors in favor of a one-size-fits-all categorization of risk. This punishes credit unions that excel at risk management and work with each member-owner to manage risk actively. The result is that credit unions lose their ability to serve their diverse memberships and become merely carbon copies of the model endorsed by the regulator and applied by rule prescription.

NCUA could achieve the goals of this proposed rule in a far more flexible and pragmatic way by making the proposal a modelling tool rather than a rule, similar to interest-rate risk-monitoring tools. Examiners could calculate capital ratios using risk weights appropriate for each credit union's environment, and discuss with boards and management their views of risk for various asset classes. As conditions change, NCUA could adjust such supervision tools to evaluate the impacts particular to individual credit unions, unique markets, and evolving economies. A model is far more flexible than a rigid rule, and allows opportunities to effectively manage risk, rather than distort decision making through rule-based estimates of risk which may or may not be relevant.

Interest Rate Risk

NCUA has indicated that it may issue a separate IRR rule in the future. We believe that IRR is a supervisory issue and not an issue appropriate for rule-making. NCUA already has a regulation that requires credit unions to have a board-approved IRR policy, which examiners may review. NCUA already has an abundance of supervision authority and a plethora of risk management techniques to effectively address IRR. Credit unions use many different strategies to mitigate such risks, and historically have strengthened their credit unions by taking an individual approach tailored to the best interests of the credit union and its member-owners. Any IRR regulation that sets arbitrary thresholds to deal with a small number of outliers would be an affront to the majority of credit unions operating responsibly in their members' best interests. Because current supervisory authority is sufficient to manage these risks, we ask that NCUA not issue a separate IRR regulation.

Conclusion

OCUL believes this proposal is flawed, and further, is unnecessary in the form of a single, all-encompassing inflexible rule.

Our concerns with the substance of the proposed rule are summarized as:

1. Without meaningful opportunity to allow the inclusion of supplemental capital in the ratio calculation, NCUA's RBC system is incomplete. Implementation should be delayed until such time as complementary solutions (legislative and regulatory) empower the use of supplemental capital for **all** credit unions.
2. The RBC system contemplated in this rule is better suited to be used a a model that can be adapted to individual credit unions as a part of the supervisory process.
3. Current rules and practices in place to manage interest-rate risk are sufficient. An additional rule in this area is not needed.

The Ohio Credit Union League appreciates the opportunity to provide comments on the NCUA's proposed rule on Risk-Based Capital, and is available to provide additional comments or information on this proposal if so requested. If you have any questions, please do not hesitate to contact me at (800)486-2917, ext. 262 or via e-mail at cmccallister@ohiocul.org.

Sincerely,

Paul L. Mercer
President

Carole McCallister
Manager, Regulation & Compliance

cc: Stan Barnes, OCUL Chair