April 24, 2015

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

Delivered via e-mail: regcomments@ncua.gov

Re: Comment to Proposed Prompt Corrective Action: Risk-Based Capital Rule – Second Proposal

Dear Mr. Poliquin:

Thank you for the opportunity to respond to the proposed revised risk-based capital rule. Landmark Credit Union is a community chartered credit union serving 235,000 members with $2.6 billion in assets.

Landmark thanks the NCUA Board for its consideration of the industry comments on the first proposal and its subsequent revisions to the initial rule. However, despite the many notable positive revisions there remain substantial problems with the current proposal.

Landmark continues to oppose the proposed rule because it could significantly impair Landmark's ability to serve its members. Landmark is well capitalized and would remain well capitalized under the proposed rule calculation. However, the margin by which Landmark would be well capitalized would be smaller under the current proposal. Additionally, the proposed risk weights could limit Landmark's flexibility in optimally structuring its balance sheet in the future. If the proposed rule is implemented Landmark may be forced to reduce lending, restrict deposit growth, and/or increase fees to members in order to build capital levels beyond what is necessary for safe and sound operation just to meet the new risk-based calculation. These actions would jeopardize Landmark's brand which has been carefully constructed and reinforced for decades, deter our members from expanding relationships with us, adversely affect our ability to compete against other financial institutions for new members, and limit our ability to benefit from economies of scale. The proposed risk-based capital rule could ultimately weaken Landmark, and the industry as a whole, not strengthen it.

Landmark has serious concerns about the risk-base capital calculation and other features of the proposed rule. Specific concerns with the proposed rule are outlined below.

<ins>Concentration Risk</ins> – Risk weights that increase based on percentages to total assets for mortgage loans, equity loans and member business loans (MBLs) are not in-line with bank risk based methodologies, and concentration percentages for asset classes are not in and of themselves accurate measures of risk.

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Bank regulator risk based methodologies do not incorporate weight differentials based on percentage of total assets for a given asset class. This is appropriate because the composition of any asset class and its inherent risk is unique to every institution.

Concentration percentages alone are not predictors of loss or sound measures of risk. An institution's risk of loss on a certain asset class is the sum of the individual instrument loss risk within that class; not an increasing function based on relative portfolio size. It is the quality of loans in a portfolio that drives risk. As a practical example, Landmark, which has very low loan loss rates on member business loans (less than 5 basis points) and mortgages (less than 25 basis points) over any time range back through the Great Recession could be unduly punished with excessive capital requirements if the proposed rule is implemented. If Landmark in the future had a mortgage portfolio totaling 35% of assets and then originates a new mortgage loan; there is no basis to believe that the new or marginal loan would have any more or less risk than any other loan in the portfolio. Accordingly, there does not appear to be a justification for increasing the risk weighting on that marginal loan.

The tiered concentration risk weights in the proposal would, hinder Landmark's ability to meet our members' loan needs and put Landmark and all credit unions at a competitive disadvantage to other financial institutions.

Landmark recommends eliminating higher risk weights for first mortgages, equity mortgages, business loans or any asset based solely on concentration percentages. Concentration risk should be managed through the examination process.

<u>NCUSIF Deposit</u> – The proposed rule excludes the NCUSIF deposit from the risk based capital calculation. This treatment implies that the deposit has no value and would be contradictory to NCUA's guidance and GAAP that it should be reported as an asset rather than expensed. Landmark is concerned that if there is no regulatory value to the deposit it is more difficult to justify carrying this item as an asset on its audited financial statements. Additionally, if a credit union voluntarily liquidates the deposit is refundable which indicates there is value.

Landmark recommends that the NCUSIF deposit be included in both the numerator and denominator of any risk-based calculation.

<u>Pension Asset</u> – The proposed rule appears to penalize credit unions that have an over funded pension plan by excluding the over funded value from capital, but including it in other assets with a 100% risk weight. Excluding this value from the numerator of the risk based capital calculation but including it in the denominator results in lower capital ratio. It does not seem logical to penalize a credit union for having an over funded pension plan.

Landmark recommends that the treatment of a pension asset be applied consistently to both the parts of the risk-based capital calculation.

Excessive Risk Weights – The proposed rule includes very high risk weights for several specific asset classes which appear inappropriate for the real risk posed by these assets.

Junior Real Estate Loans – The proposed starting risk weighting of 100% for junior real estate loans is too high for the risk posed by these loans. Other consumer loans have a risk weighting of 75% and unsecured loans have risk weighting of 100%, both with no proposed escalation for concentration tiers. To apply a 100% to 150% risk weighting to junior real estate loans that are better secured and have lower historic loss rates than other secured consumer and unsecured loans does not appear warranted and would result in excessive capital requirements.

Landmark recommends a flat 75% or lower risk weight for Junior Real Estate Loans.

Mortgage Servicing Rights (MSR) – Mortgage Service Rights are proposed to have a 250% risk weight. This high reserve level is punitive and ignores the benefit from this asset in an increasing rate environment. Landmark has in part built its mortgage brand on local servicing. The proposed risk weight would be a significant disincentive to retain serving on loans sold to the secondary market and potentially weaken our member relationships. Many credit unions retain servicing rights to serve their members and not to create a financial asset to be traded. This in-house strategy for holding MSRs justifies a lower risk weighting.

Landmark recommends a risk weight of no more than 100% on MSRs, if the MSRs are not held for sale.

Loans Held For Sale – The proposed 100% risk weight for Loans Held for Sale (HFS) is significantly too high for the risk these assets present if they are covered by forward sales contracts. HFS loans that are covered by mandatory forward sales contracts are transitory on the balance sheet and represent no capital risk as they will be replaced by cash within 30 days upon sale. Imposing a 100% risk weighting will result in excess capital requirements and be a disincentive to make mortgage loans.

Landmark recommends retaining the 100% risk weight for HFS loans not covered by mandatory sales contracts, but using a 20% risk weight for HFS loans covered by mandatory sales contracts or other permissible hedging strategies.

Corporate Perpetual Capital – The proposed 150% risk weight for perpetual capital in corporate credit unions is excessive and creates a disincentive to partner with a corporate credit union which will weaken the system. Although perpetual capital is clearly a risk asset, the proposed across the board 150% is punitive to investor credit unions that perform prudent risk management and due diligence and invest in well run well capitalized corporate credit unions.

Any risk weighting above 100% on perpetual capital should be based on the capitalization level of the issuing corporate credit union. If the issuing corporate is well capitalized the risk of the investor's perpetual capital is minimal and so warrants a reasonable risk weight of 100%. However, if an issuing corporate is not well capitalized than it is appropriate for a higher risk weighting to be used.

Landmark recommends a tiered risk weighting starting at 100% for perpetual capital in a well capitalized corporate and a higher risk weight for investment in undercapitalized corporate credit unions.

CUSO Investments – The proposed 150% risk weight for investments in CUSOs is excessive and would create a disincentive for credit unions to collaborate. Many smaller credit unions can only participate in essential service offerings by belonging to CUSOs due to their lack of scale or in-house expertise. The proposed excessive risk weight may have the unintended consequence of pushing small credit unions out of CUSOs, limiting their service offerings, and putting them at an even greater competitive disadvantage.

Landmark recommends a risk weight of 100% for CUSO investments and loans.

Fair value of mutual funds not compliant with Part 703 – The proposed 300% risk weight for non-compliant mutual funds is excessive. These equity securities when used as part of a prudently managed employee benefit funding strategy strengthen a credit union by diversifying their earning assets and augmenting revenue to offset rising health care and benefit costs. The onerous 300% risk weight and resulting use of capital will unduly limit credit union use of benefit funding strategies and make it more difficult to attract and maintain quality employees.

Landmark recommends a risk weight of 150% for non-compliant equity investments.

Non-Delinquent Restructured Loans – The proposed risk weighting of non-delinquent restructured loans as if they were delinquent is excessive. The purpose of restructuring a loan is to maximize cash received and minimize the risk of loss following an adverse change in a borrowers' ability to pay. Loans are restructured to enable a troubled borrower to ultimately pay off their debt without additional collection action. A properly restructured loan lowers the risk of principal loss and should not bear a higher risk weight. NCUA and state regulators can manage improper loan restructuring activity through the examination process rather than place a universal capital penalty on all restructured loans.

Landmark recommends the risk weight for non-delinquent restructured loans be equivalent to that used for current loans of the same type.

In summary Landmark Credit Union strongly believes this revised rule as proposed will adversely impact our members, our company, and our industry. The issues addressed above will cause Landmark to build excess reserves beyond what is actually needed to operate in a safe and sound manner in order to maintain the proposed definition of 'well capitalized.' Landmark remained financially strong throughout the Great Recession and is prudently growing members, capital, and assets in the difficult economic environment of the current subdued recovery. We have accomplished this success while operating at the safe and sound 'well capitalized' reserve levels under existing regulations. Landmark would need to penalize our members by discouraging borrowing, negatively adjusting rates, deterring savings, and/or increasing fees in order to bring our reserve level up to and maintain an adequate margin over the new proposed risk-based capital requirements.

Thank you, again, for the changes already made to the initial proposal and for the opportunity to comment on the proposed changes. Landmark also thanks you for your thoughtful consideration of how the revised proposed rule would negatively impact our members and our ability to compete and prosper in the future.

Respectfully submitted,

David Powers
Chief Financial Officer
Landmark Credit Union