April 24, 2015

John LaHair
217 N. Lake Avenue, Apt. A
Worcester, MA 01605

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

Re: Risk-Based Capital Proposed Rule – RIN 3133-AD77

Dear Mr. Poliquin:

As a credit union member and employee, I am writing you to comment on NCUA's proposed Risk-Based Capital Rule. I am sure the rule as currently written will make it much more difficult for credit unions to take care of the needs of their member/owners. I appreciate the opportunity to outline a few issues I see before the rulemaking process is finished.

Unnecessary regulation

There is no clear basis for disregarding the current prompt corrective action (PCA) regulations and adopting a completely different model. There were no issues identified as part of the NCUA's most recent review of the regulation performed as part of the NCUA's rolling three-year review of regulations in 2012. This analysis was performed subsequent to the NCUA's December 19, 2011 response, included in the January 4, 2012 United States Government Accountability Office (GAO) Report to Congress (GAO-12-247)[1]. This response by Chairman Matz, indicated:

> *"It is also worthy to note that consumer credit unions performed very well during the worst financial crisis since the Great Depression, and NCUA was highly successful overall in mitigating failures and losses for consumer credit unions. The 85 consumer credit union failures occurred over a two and a half year period during the height of the economic crisis. As noted in the report, the level of annualized failures is relatively low, only marginally higher than pre-crisis levels, and involved institutions with less than 1% of total credit union assets. NCUA was effective in prioritizing our supervisory resources during the economic crisis to prevent the failure of larger credit unions that came under stress, and in mitigating losses for those that did."*

[1] http://www.gao.gov/assets/590/587409.pdf United States Government Accountability Office – Report GAO-12-247 – January 2012.

In late January 2013, the NCUA's Office of General Counsel released the list of regulations being reviewed, indicating, "Regulations under review in 2013 include rules governing member business loans, fair credit reporting, privacy of consumer financial information, appraisals and share insurance. ... Additionally, NCUA will expand its review of federal credit union bylaws, which began in 2012." Based on this release, it would appear the PCA review was completed in 2012, since it was not expanded into 2013.

The NCUA suggests that the Proposed Rule was written to be more consistent with Other Federal Banking Regulatory Agencies (Other Agencies). The overall credit union industry has consistently been devoted to servicing their members differently than banks. Credit unions have proven to be an economic force in local markets and softened the effects of the recent economic downturns to its members. The overall credit union industry is not looking to be more consistent with banks and has devoted time to being a cooperative in nature.

Asset size should not define a credit union as "Complex"

The Federal Credit Union Act (FCUA) provides that the NCUA may only adopt RBNW rules for "insured credit unions that are complex, as defined by the Board based upon the portfolios of assets and liabilities of credit unions."[2] While the increased threshold of $100 million represents progress, it still disregards the composition of assets and liabilities of individual credit unions. A more detailed definition of "complex" is warranted.

In addition to the above considerations, I recommend the NCUA increase the proposed asset threshold from $100 million to $1 billion. This threshold should be used in combination with actual operational complexity as measured by the NCUA's Complexity Index. The NCUA discussed a Complexity Index as part of the supplemental information. Thus, it is proposed that all federally-insured credit unions with assets under $1 billion be considered non-complex, and that only those credit unions with assets above $1 billion with a Complexity Index value of 20 or higher be required to meet risk-based capital provisions.

Significant under estimation of the regulatory burden

The Proposed Rule's Paperwork Reduction Act section estimates the additional data collection requirements for an estimated 1,455 complex credit unions to be a one-time 40-hour burden, or $1,276 cost per credit union. The Proposed Rule does not incorporate the estimated burden for establishing a comprehensive written strategy for maintaining an appropriate level of capital and other changes to the credit union's operations other than data collection. The effects of this proposal will be a much greater burden on complex credit unions upon the implementation year and for ongoing years. The NCUA's final rule on Capital Planning and Stress Testing estimated 750 hours of paperwork burden in the initial year and 250 hours in subsequent years[3].

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[2] http://www.ncua.gov/Legal/Documents/fcu_act.pdf (Page 82)
[3] http://www.ncua.gov/Legal/Documents/Regulations/FIR20140424CapitalPlanningStressTesting.pdf (Page 24315)

Other than submitting a plan to the agency, it is unclear how the requirements of this proposal differ from the final rule on Capital Planning and Stress Testing. Using the cost estimate previously utilized by the NCUA, a more reasonable estimate (compared to zero) would be $23,926 per credit union or $34.8 million to the industry for the initial year of the final RBC rule. Additionally, there would be an ongoing annual cost of $7,975 per credit union or $11.6 million to the industry. Over a five year period, the cumulative cost to the industry would be approximately $81.2 million.

Again, thanks for the opportunity to share my comments on the proposed risk-based capital rule. I hope that the NCUA will make the changes to the regulation I've recommended so that the ability of my credit union and that of many other credit unions to help its member/owners will remain strong in a time when credit unions stand ready to assist our members and potential future members.

Please let me know if you have any questions about my comment letter. I may be reached by email, or if you'd like by phone at 508-963-3256.

Most sincerely,

John LaHair