

Mr. Gerard Poliquin, Secretary of the Board
National Credit Union Administration
April 27, 2015
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Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: Risk-Based Capital Proposed Rule
RIN 3133-AD77

Dear Mr. Poliquin,

I am writing to you regarding the National Credit Union Administration's proposed rule governing risk-based capital. Thank you for opportunity to comment on the revised proposed rule and the effect it would have on credit unions if finalized in its current form. As a member and employee of Digital Federal Credit Union (DCU) for 24 years, I would like to offer some suggested improvements in the rule for your consideration as you move forward in the rulemaking process.

Asset Size Should Not Define a Credit Union as Complex

The Federal Credit Union Act (FCUA) provides that the NCUA may only adopt Risk-Based Net Worth (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." 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 and a Complexity Index value of 20 or higher be required to meet risk-based capital provisions.

Requirements for Capital Adequacy is Unclear

The Proposed Rule requires that “complex” credit unions “must have a process for assessing its overall capital adequacy in relation to its risk profile and a comprehensive written strategy for maintaining an appropriate level of capital” and “the nature of such capital adequacy assessments should be commensurate with the credit union’s size, complexity, and risk-profile.” The requirement for credit unions to have a comprehensive written strategy poses excessive regulatory burden to credit unions (see **Significant Under Estimation of the Regulatory Burden** discussed later in the letter) and the ruling is too vague. There are no clear guidelines and/or criteria of an NCUA’s defined “comprehensive written strategy” for credit unions and NCUA examiners within the proposed regulation. This results in inconsistently applied requirements throughout the NCUA and its regions. Credit unions already have adequate capital adequacy policies, processes and procedures in place, therefore the NCUA should remove the requirement of a written strategy from the RBC rule. Furthermore, this proposed requirement appears to be a strong resemblance to the Capital Planning and Stress Testing rules issued last year for credit unions with assets of \$10 billion or more.

Significant Under Estimation of the Regulatory Burden

The Proposed Rule’s Paperwork Reduction Act 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.

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.

Treatment of Mutual Fund Investments

The “full look-through” approach described in the Proposed Rule fails to apply risk-weights to mutual fund investments in a consistent manner to the holding of the same securities by credit unions directly. For instance, a credit union that holds “U.S. Treasuries and Government Securities” would assign a risk-weight of 0% to such holdings. In contrast, an investment fund, with similar U.S. Treasuries and Government Securities, would have a risk-weight of 20%

assigned to this asset. This disparity in the treatment of the same asset when held by two different entities unnecessarily discriminates against a credit union's investments in mutual funds by penalizing the credit union for making the same investment indirectly that they could otherwise make directly. Further, the added layer of risk that the Proposed Rule assumes will be present for indirect investments is not a factor with mutual funds. Mutual funds provide daily redemption at net asset value and generally provide sold share proceeds to the investor on the next business day.

The NCUA should revise the RBC regulation so that mutual fund risk-weights are consistent with the risk-weights on the underlying instruments. We suggest a full look-through approach that is attuned to the distinctions between underlying assets that would allow low-risk mutual funds to carry risk ratios ranging between the 0% and 20% based upon the actual risk ratio of their holdings.

We also suggest that the Proposed Rule be clarified to indicate the timing of "the most recently available holdings reports" that are to be used by credit unions employing the full look-through approach for their analysis of investment fund assets.

A Separate Interest Rate Risk Rule

It is appreciated that the Board removed the portion of the regulation associated with the interest rate risk component. The current Supervision and Examination process is a more adequate way to address concerns with a small group of potential outliers. Adding additional regulatory burden to credit unions strictly based on asset size is not necessary.

Should the Board decide to issue a proposal in the future, similar to the process utilized for the derivative rule, the issuance of an Advance Notice of Proposed Rulemaking is encouraged. This will enable the Board to receive constructive feedback, prior to deciding on issuing a proposal.

In conclusion, thank you again for the opportunity to comment on the proposed regulation. As a credit union member and employee, I respectfully urge NCUA to address the recommended improvements as outlined in this letter.

Sincerely,



Debbie Taverna