

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

Re: NCUA's Risk Based Capital Proposal, RIN 3133-AD77

Dear Mr. Poliquin:

As the President/CEO of CDC Federal Credit Union (CDCFCU), I appreciate the National Credit Union Administration (NCUA) Board's request for comments on the NCUA's second proposed-risk based capital rule (RBC2) and giving us the opportunity to provide a response as outlined below. CDC FCU was chartered in 1949 by employees of the Centers for Disease Control and Prevention and currently serves appx. 18,000 members with \$278 million in assets. Located in Atlanta, Georgia, we are a multi-group chartered federal credit union offering financial services to over 100 employers.

While many of our concerns with the initially proposed Risk-based Capital Rule have been addressed in RBC2, we remain troubled by NCUA's continued pursuit of a rule that does not appear to have meaningful justification, contains capital punishment for cooperative business models, and has not been clearly demonstrated to be within the Agency's rule-making authority. It is our hope that NCUA will accept these comments in the spirit of giving strong consideration to doing what is the right thing for the credit union system in America.

NCUA has not demonstrated that the proposed risk-based capital rule would have had any significant effect on the outcome of some credit unions during the great recession. If anything, those credit unions more than demonstrated the need for the agency to address capital adequacy for individual credit unions through the exam process, as opposed to trying to apply a broad-brush application that penalizes credit unions without significant risks on their balance sheet. RBC2 continues to represent a "one size fits all" solution to capital adequacy as illustrated by the consistent requirement of 10% risk based capital for every credit union with assets over \$100 million to be considered "well-capitalized". While we understand \$100 million may seem significant, we do not support the notion that asset size is the definition of "complex". If NCUA is going forward with a two-tier capital rule, we ask you to re-consider this definition to either go much higher in asset level, or to properly define complex based on the mix and complexity of those assets. It is our belief that the current risk-based capital requirement system is sufficient to provide capital adequacy at the institution level and that adequate capitalization is what was intended when the current rule was written.

RBC2 continues to require additional capital for credit union owned CUSO's. This additional capital requirement seems to punish the cooperative business model that is the infrastructure of all credit unions. Again, the exam process would reveal any threats to capital at the individual institution level. NCUA worked diligently to gain regulatory oversight authority in this area and should now use that authority to ascertain appropriate capital requirements based on the results of their findings within individual organizations. The overwhelming majority of today's CUSO's are extremely beneficial to the delivery of great service to credit union members in situations whereby individual credit unions might

not be able to make the same offerings and put themselves at risk of extinction. Please reconsider the proposed rule's requirements regarding reserves for CUSO ownership.

Throughout both the original proposed rule's comment period and the subsequent revisions, NCUA has not provided a solid legal opinion stating the agency has the authority to impose this rule on credit unions. While certainly not legal experts, we do rely on highly reputed law firms to provide strong advice and guidance for legal matters. NCUA's choice of legal firms is absolutely without question, but the opinion provided leaves much room for further consideration and debate, even within the firm that published the opinion. There is disagreement amongst the NCUA board surrounding the legal authority of the agency to impose this rule, and the original authors of the legislation have boldly stated their positions against this rule. At a minimum, NCUA should defer this new rule until such time as there is a clear and strong opinion written to suggest the legal rule-making authority is without uncertainty.

RBC2 will require significant changes in reporting for credit unions. Implementing new software, tracking programs, etc. to provide accurate information for calculating this newly proposed capital requirement will come at a high cost to credit union members. Credit Unions are recovering now from the effects of the Corporate Credit Union failures and subsequent capital stock losses, additional insurance assessments, and the economic recession that brought financial despair to many members. Given the insignificant impact this new rule would have to the outcome of some credit unions in another failed economy or internal fraud event, NCUA should re-evaluate the need for this rule from a cost/benefit analysis. As the Agency has publicly stated, it is not funded through federal tax payments, but rather by credit union members. This expenditure will directly affect member capital as it establishes yet another regulatory operating cost. While the change from the first rule's implementation timeframe is appreciated, NCUA should also consider extending that date further to allow ample time for credit unions to implement.

I appreciate NCUA's request for possible "new" solutions for managing Interest Rate Risk (IRR). IRR should not be incorporated into the risk-based capital system, or in any way grafted onto the Prompt Corrective Action system. NCUA already has an interest rate risk rule in place that provides adequate protection. There is more than one way to evaluate interest rate risk, and selecting just one in a fixed rule would unnecessarily restrain credit union risk-management. If NCUA feels that additional interest rate risk steps are needed, they should be addressed in the regulatory, examination, and supervision process. Our credit union has experienced close scrutiny by examiners in this specific area and feel that the existing rules more than adequately address IRR concerns.

In conclusion, we respectfully submit these comments for consideration in either abandoning the rule in its entirety, or making thoughtful changes as represented above.

Regards,

Elizabeth P. Mercier
President/CEO
CDC Federal Credit Union, Charter #6053