



Filed via [regcomments@ncua.gov](mailto:regcomments@ncua.gov)  
April 27, 2015

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:

InTouch Credit Union (ITCU) is an \$825 million institution headquartered in Plano, Texas, operates twenty-two branches in five states, and serves over 85,000 members residing in all 50 states and 32 foreign countries. Originally chartered in 1974 as EDS Employees Federal Credit Union, ITCU converted to a state charter approximately fifteen years, and in no small part, due to the continual regulatory burdens and interpretations instituted by the National Credit Union Administration (NCUA). In our opinion, the proposed Risk Based Capital Proposal: RIN 3133-AD77 (RBC2) rule contains many solutions in search of non-existent problems.

It seems clear that NCUA leadership believes good business decisions and risks can be legislatively controlled, mandated, and effectively administered by examination personnel. However, this same NCUA philosophical view has also supervised a movement that has seen the total number of credit unions fall from over 17,000 to less than 6,500 over the last several years. At best, legislative regulations should only be implemented as protections for the most extreme circumstances. Regulations should not be established to identify trends based on unimaginative or subjective fears to potential problems. The "herd" mentally does not only always produce the best results. Good business decisions are always more nuance than binary, and any attempt or intent to eliminate or control risks at the legislative level typically produce unforeseen circumstances and consequences that not only fail to prevent catastrophes but will further help eradicate a movement that has effectively served America and millions of Americans. Credit unions did not create the economic circumstances that led to Great Recession, but several provisions in the latest NCUA RBC2 proposal continues to fall in this very predictable legislative pattern.

First, ITCU strongly opposes the capital adequacy plan requirements in RBC2. The opportunity for individual credit union uniqueness in the movement continues to be one of its most profound advantages. Many credit unions still operate offices or branches subsidized in sponsorship space, while others pursue more independent accommodations. As such, each credit union's desired capital ratio should depend on its management's assessment of the risks it faces, its tolerance for those risks, and its ability to fulfill its vision and serve its members. Granting examiners with little to no "management" expertise with assessing capital sufficiency will usurp a credit union's long-term strategic capital plan and replace it with "ratio targets" that an examiner or regulatory body wants to tout as evidence of its safety. This position does not align with the flexibility and uniqueness established by the Federal Credit

Union Act; the Act that spawned the credit union movement and the vision by its leaders to make a difference in lives of the members it serves. A “riskless” movement does not help credit unions, and the establishment such will continue to support the declining number of credit unions nationwide.

Second, the RBC2 proposal does not permit the use of supplemental capital for risk based capital purposes in general, except with low-income designated credit unions, which makes no sense if supplemental capital truly represents “capital” and not just window-dressing. At a minimum, the amount of supplemental capital should be included in the numerator of the calculation; but at best, the NCUA should be working on devising investor suitability and disclosure requirements for supplemental capital for the industry as a whole.

Next, what makes \$100 million in assets the “magic number” that qualifies a credit union as complex? Further, what is complex? The NCUA should define the term “complex” using legitimate criteria other than just asset size (e.g., multiple asset types, liabilities, services, or service delivery factors should also be considered) because complexity is not necessarily a size definition. Very large organizations and types of operations can be very, very simple. Credit unions deserve a better definition of what defines complexity if any regulations are to be issued on the basis of this definition.

Lastly, although the proposal does represent an improvement to the first RBC proposed rule, RBC2’s risk weights for CUSO investments and mortgage service rights are clearly attempts to regulate interest rate risk through an opaque credit risk tool. It is obvious that NCUA’s long-term “boogeyman” fear of rapidly climbing interest rates is one of the core factors being used to support the abnormally high risk weightings, not to mention the desire to regulate certain CUSO operations of which the NCUA has no expertise. Nevertheless, having data that clearly illustrates over ninety-eight percent (98%) of all credit union failures over the last twenty years occurred because of poor credit risk management and/or internal fraud, efforts are still being made to impose even more interest rate risk regulations (notwithstanding the current attempt to convince credit unions that the risk weights proposed in RBC2 are solely designed to address credit and asset concentration risk exposures). Given that virtually no credit union failures have been directly due to or caused by interest rate risk, and the NCUA already established an Interest Rate Risk Policy and Program rule in 2012, why do we need more? Interest rate risk should not be incorporated into the risk-based capital system or grafted onto the Prompt Corrective Action system in any way or manner! There are already enough rules in place (including “brain-washed” examiners convinced that interest rate risk is the next economic pandemic waiting to happen) that provide more than adequate protection for the NCUA and NCUSIF on a systemic basis.

In closing, thank you for the opportunity to comment on the proposed regulation. Please feel free to contact us if you would like any additional information.

Sincerely,



Kent L. Lugrand  
President & CEO  
InTouch Credit Union  
[ceo@itcu.org](mailto:ceo@itcu.org)  
214-291-1776