

From: [Mark Federico](#)
To: [Regulatory Comments](#)
Subject: Mark Federico - Comments on Proposed Rule: Risk-Based Capital
Date: Tuesday, April 28, 2015 12:47:18 PM

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

Dear Mr. Poliquin,

As a credit union member, I am concerned with the following things contained within the revised Risk-Based Capital Proposed Rule.

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 in my next bullet) 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.

Implementation of the Final RBC Rule Should be Beyond 2019

Thank you for recognizing an effective date of eighteen months was not reasonable. The Proposed Rule has an effective date of 2019, or approximately four years. It is unclear when the NCUA will implement the changes needed on the Call Report system to require information for calculating the RBNW under the final RBC rule. Other Agencies provided seven years with a phase-in requirement. Should the NCUA choose to continue utilizing Other Agencies as a guideline for this Proposed Rule, the final rule should have a similar seven-year implementation period or beyond.

The year of the liquidation of the Temporary Corporate Credit Union Stabilization Fund (TCCUSF), which is scheduled to occur in 2021, should be an additional consideration for the NCUA to further delay the implementation of the final RBC rule. The final rule’s implementation date should coincide with TCCUSF liquidation to enable this distribution to become part of the calculation in determining a credit union’s RBNW.

Credit Union Service Organizations (CUSO)

The Proposed Rule risk-weights an unconsolidated investment in CUSO at 150%. The

comparison of such a credit union investment to Other Agencies investments is not justifiable. I recommend a maximum 100% risk weight to an investment in CUSO is recommended. This would be consistent with the risk weight assigned to loans to CUSOs.

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.

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 (<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.

NCUSIF Deposit

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The credit union system has capitalized its own separate, federal insurance fund, years ago. This structure and its current value should not be overlooked. The 1% deposit made by all federally-insured credit unions to the NCUSIF is an asset which should be properly included in any risk-based capital calculation. This amount is fully refundable should a credit union convert to private insurance (where allowed), or convert its structure to a bank. This balance is considered an asset in accordance with Generally Accepted Accounting Standards. The NCUSIF deposit should be included in the RBC calculation.

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Mark

