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**Marcus B. Schaefer**  
President/CEO

April 27, 2015

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

Re: Comments on NCUA's Proposed Rulemaking for Prompt Corrective Action - Risk-Based Capital

Dear Mr. Poliquin:

I am writing on behalf of Truliant Federal Credit Union in response to the NCUA's Proposed Rulemaking for Prompt Corrective Action - Risk-Based Capital. Truliant Federal Credit Union is a \$1.7 billion credit union serving over 185,000 members in and around North Carolina.

Truliant Federal Credit Union, formerly AT&T Family Federal Credit Union, was the subject of the landmark U.S. Supreme Court lawsuit by the banking industry against the NCUA over field of membership that culminated in the Credit Union Membership Access Act (CUMAA) of 1998.

Truliant supports a safe and sound credit union system and a strong share insurance fund. Truliant also believes that credit unions engaging in riskier activities and/or high concentrations of certain activities should maintain a net worth level commensurate with the risks.

The NCUA released a Risk-Based Capital (RBC) proposal that would supplement the statutory leverage capital requirements for credit unions that is contained in the CUMAA of 1998. Those leverage ratios were set high—7% for “well-capitalized”—relative to the bank ratios at the time. The first version of RBC was not well-received and, after extensive support for credit unions from Congress, the NCUA agreed to revise the proposal and resubmit for comment. The new RBCII is much better than the first in risk weight parity between the credit union and banking industries.

There is controversy over whether or not the NCUA has the legal authority to impose a two-tier capital system on “complex” credit unions with each side—NCUA & the Credit Union National Association (CUNA)—having secured legal opinions supporting their position. We do not believe that the NCUA has the legal authority to impose both the statutorily mandated leverage capital and greater risk-based capital requirements on select credit unions. We do believe the NCUA has the supervisory authority to compel credit unions that create excessive risk to the National Credit Union Share Insurance Fund (NCUSIF) to

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demonstrate the ability to manage those activities, including but not limited to carrying additional capital or to cease and desist those activities.

Our concern is that, in having to defend their position on RBC, the NCUA has aligned their regulatory regime to duplicate the bank regulations. The NCUA's position is that they are required to adopt a system that is "substantially similar to other banking agencies," "equivalent in rigor," "comparable," and "parallel in substance (though not necessarily identical in detail)." In our opinion, the NCUA has interpreted this too narrowly and to the point where they dismiss the other section of the law that requires them to "take into account the cooperative character of credit unions."

The NCUA is not an "other banking agencies"; the NCUA is a credit union agency. Credit unions are significantly different in structure and purpose with the accompanying strengths and weaknesses. For example, you can reasonably argue that a long-term credit union member with a solid loan repayment record is more likely to repay their mortgage loan at the credit union than a comparable bank customer. A case could be made for having a different risk weight than banks for consumer and mortgage loans. It is noteworthy that the banking regulators and the industry are now trying to sort through Basel III with little agreement on what is workable, especially for banks similar in size to credit unions, and with many recommending a return to the leverage ratio. As noted above, most credit unions operating as "well capitalized" (at or above 7% without excessive risk) would compare favorably.

The NCUA has deferred to Treasury and Government Accountability Office (GAO) studies that support their position on RBC, but fail to consider the uniqueness of the credit union system. It is useful to recall that, in 1990, Treasury strongly recommended changing the structure of the NCUSIF to a premium-based system, forcing credit unions to expense their existing deposits. Had the trade associations and credit unions not objected, there would likely be no NCUSIF today—perhaps, no NCUA, as well. Logically, there would not be the rich availability of credit unions to the U.S. consumer. The NCUA should be willing to disagree with Treasury whenever it makes sense for the credit union system.

Credit unions did not cause the financial crisis. While our corporate credit unions did invest in Mortgage-Backed Securities (MBS) that were AAA rated but not Fannie Mae/Freddie Mac insured and we had to cover those losses, the NCUSIF held up well to the natural person credit union losses. The NCUSIF is funded differently than the premium-supported FDIC funds. We believe that funding mechanism supports the cooperative nature of credit unions and that it has performed ably throughout its history. A former head of the FDIC had even at one point suggested that the banking industry look at alternative deposit insurance fund systems including a re-funding of the insurance pool by all banks based on the health of the system overall. The FDIC funds were wholly inadequate to handle the banking crisis and the system resorted to massive bailouts from the U.S. Treasury, including direct injection into individual banks and the banking system through Troubled Asset Relief Program (TARP).

***If the NCUA adopts identical regulations and deposit insurance systems for credit unions, we are concerned that we will begin to operate identically to banks. We could also end up performing as banks do during a crisis. We believe it is the NCUA's responsibility to explain and educate public policy makers on the structure and operation of our regulatory system and the NCUSIF.***

The NCUA seems to believe that providing that information would amount to "regulatory capture" and is the exclusive role of the trade associations. We could not disagree more. As stewards of the NCUSIF and, as both the regulator and insurer, the NCUA has a special role in public policy to explain and protect

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the credit union system so that it will remain in place for generations of credit union members yet to come.

As the credit union at the heart of the 1998 banker attack on credit union Field of Membership—an attack that could have destroyed the credit union movement as we know it—Truliant is mortified at the prospect that our own regulator might fail to fully appreciate and defend against this risk to the uniqueness of credit unions and to protect the value of ownership to the one hundred million present and tens of millions of future members we collectively provide.

We concur with the Credit Union National Association's comment letter stating:

“But credit unions are not banks. Because of their unique cooperative structure, strong member focus, and the absence of stock options for executives or pressure from stockholders, these not-for-profit institutions with democratic governance eschew excessive risk taking. Because credit unions take on less risk, they tend to be less affected by the business cycle, and therefore can serve as an important counter-cyclical economic force in local markets, softening the blow of economic downturns in local economies. Indeed, in the face of the recent financial crisis credit unions – unlike their counterparts in the for-profit banking sector – served as both a counter-cyclical force and a safe haven, with much stronger loan and deposit growth than banking institutions.”

“If credit unions are regulated and supervised more and more like banks, they will act more and more like banks. That would be a tragic loss for the consumers of financial services in America's working and middle class.”

We urge the NCUA to give careful consideration to differentiating the proposed capital regime based on the positive characteristics of credit unions and to resist creating a system “identical” to the banking agencies. We also encourage the NCUA to take a leadership role along with credit unions and their trade associations in informing and educating public policy makers of the strength and diversity of our regulatory and deposit insurance system.

We appreciate the efforts made by the NCUA to improve the rulemaking process with a revised rule and comment period and hope that the comments provided from Truliant and other credit unions will further enhance the process. Please call me at (336) 293-2001 if you have any questions.

Sincerely,



Marcus B. Schaefer

President/CEO

Truliant Federal Credit Union