GEORGIA CREDIT UNION
Affiliates
6705 Sugarloaf Parkway, Suite 200
Duluth, GA 30097
(770) 476-9625 • (800) 768-4282 • (770) 497-9534 (Fax)

AMERICA'S CREDIT UNIONS™

April 27, 2015

Mr. Gerald Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428

RE: Comments on Proposal for Risk Based Capital (2); NCUA-2015-0011-0001; RIN 3133-AD77

Dear Mr. Poliquin,

The Georgia Credit Union League (GCUL) appreciates the opportunity to comment on the Proposal for Risk Based Capital (RBC2). As a matter of background, GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL serves approximately 136 Georgia credit unions that have over 2 million members. This letter reflects the views of our Regulatory Response Committee, which has been appointed by the GCUL Board to provide input into proposed regulations such as this.

GCUL greatly appreciates that NCUA was willing to listen to the thousands of credit union responders that expressed opinions during the Agency's listening sessions and the thousands of comment letters submitted on the first proposal and issue an amended proposal. We acknowledge that RBC2 represents improvements over the 2014 proposed rule. However, RBC2 remains an onerous regulatory proposal that will alter the management decision of complex credit unions and those credit unions that will soon reach that asset threshold. While we would respectfully ask that NCUA not approve this proposal, should NCUA decide to adopt a final rule, that NCUA strike a balance between safety and soundness concerns and the compliance burdens this will place on credit unions. It will also be imperative that a final rule would leave adequate discretion for the management teams of credit unions to operate in a manner that best serves the interests of the membership.

Even with the current changes to the RBC proposal, we still **strongly** feel that the risk weightings and additional capital requirements in this proposal will not serve to increase the protection to the credit union system but instead restrict growth and impact member services.

Below are some concerns we would like to see NCUA address:

- We have not changed our stance on RBC from the first proposal – first and foremost, it is not needed. If NCUA insists on trying to make the RBC system for credit unions more comparable to bank RBC requirements, it must take into account the unique aspects of credit unions, including the credit union system's inability to raise supplemental capital. Credit unions exist to improve the well-being of their members. To the extent that RBC rules disadvantage credit unions relative to bank RBC rules, credit unions could have trouble meeting the service needs of their members.

- We are also very concerned with the costs to the credit union system that would result with implementing the proposal. Even with the positive changes that NCUA has made from RBC1 to RBC2, these rules are more burdensome than the banking regulations. Credit unions did not have the issues that banks did during the recent Great Recession! Why penalize credit unions then…?

- We believe that increasing the threshold to $100 million in defining a complex credit union is step in the right direction. However, we think that the activities that a credit union is involved in should also be taken into consideration when defining what is complex for a credit union. Complex means so much more than just asset size. A large credit union may have only basic products and should therefore be exempt from this rule. NCUA should also include in the definition of complex: deposit account types, member services, loan and investment types and portfolio composition, etc. This approach would be more consistent with the Federal Credit Union Act which requires NCUA to consider "the portfolio of assets and liabilities" of credit unions when determining whether they are "complex." In reviewing the Board's list of products and services that credit unions are engaged in that are good indicators of complexity, we believe the following should be taken off this list as they are not complex products or services: real estate - consumer residential mortgage loans, investments - obligations fully guaranteed by the U.S. government, and internet banking (which is almost a necessity for a credit union in this day and age).

- While Georgia credit unions feel that the RBC2 proposal regarding risk weightings is vastly improved over the 2014 with more thought behind both asset types and concentration risk, we still feel that more revision is needed. We don't think the CUSO weights went far enough and are still too high at 150% and mortgage servicing assets are still too high at 250%. Although the mortgage serving weightings is equivalent to the FDIC risk-weight on banks, it still seems higher than necessary considering the cooperative nature of credit unions. These risk weightings could very well affect a credit unions ability to own and operate CUSOs and hold mortgage servicing rights. We believe that weighting CUSO investments at 100% would be more accurate. NCUA shouldn't seek absolute parity with the banks as there can be legitimate reasons why there would be some risk weighted differences.

  We feel that some other risk weightings, for example, share secured loans for credit unions being weighted at 20% when banks see the same type loans at 0% and real estate loans, are still too complex and need to be simplified.

- Additionally, GCUL encourages the NCUA to reconsider the exclusion of the one percent deposit each credit union makes to the National Credit Union Share Insurance Fund (NCUSIF) in the risk-based capital ratio calculation. Excluding the deposit inappropriately lowers a credit union's risk-based capital position. A credit union's deposit in the NCUSIF is an asset under GAAP. Most importantly, it is an asset of significant value to a credit union as it represents the presence of federal deposit insurance and should be included in a risk-based capital ratio calculation.

- GCUL continues to be concerned that the use of goodwill, although it will now be permitted in the risk based capital ratio calculation when due to supervisory mergers through the effective date of the regulations, will be subject to a phase-out. GCUL is concerned with the potential unintended consequence of the treatment. Ultimately, we would like to see that goodwill arising from both previous and future mergers should continue to be counted without a time limitation, so long as it meets GAAP requirements.

  Why should credit unions after 2025 be penalized for working with NCUA to eliminate a problem without accessing the National Credit Union Share Insurance Fund (NCUSIF)? If the goodwill MUST be phased out in 2025, we ask that goodwill arising from previous supervisory mergers be grandfathered and allowed to be counted as risk-based capital without a time limit so long as it meets GAAP requirements.

- We appreciate that NCUA did not include Interest Rate Risk (IRR) rules in RBC2. However, NCUA has indicated that it may issue a separate IRR rule in the future. Georgia credit unions believe that IRR is a supervisory issue and not an issue best handled by rule-making. NCUA already has a regulation that requires credit unions to have a board approved IRR policy, which examiners can review. Credit unions utilize many different strategies to mitigate IRR and historically have been able to strengthen their credit unions by taking an individual approach. Any IRR regulation that sets arbitrary thresholds to deal with the few outlier credit unions would not be effective for the majority of credit unions. As credit unions are already bogged down and overloaded with regulations, Georgia credit unions ask that NCUA NOT issue additional IRR regulations in the future.

- GCUL supports incorporating supplemental capital by credit unions into the risk based capital ratio. However, we would like to see supplemental capital extended to credit unions beyond low-income credit unions. It will become particularly important as risk-based capital goes into effect, as credit unions are at a disadvantage in the financial market because of lack of access to additional capital outside retained earnings. We believe all credit unions should be allowed to incorporate supplemental capital in their net worth.

- Even though NCUA has changed the capital adequacy plan requirements from RBC1, we still feel that under the new proposal, NCUA has the ability to increase the amount of capital a credit union is required to maintain under the guise of "appropriate levels of capital." As we stated with the first proposal, we would submit that NCUA already has tools to help manage credit union safety and soundness concerns through DOR and Cease and Desist enforcement and this additional power is not needed.

- Last, but not least, we would like to request that NCUA provide an exemption for Charitable Donation Accounts (CDA) from the risk-based capital rule. We don't want to see these investment opportunities restricted or hindered by the new rule.

As we indicated in our last RBC letter, Georgia has many small credit unions that are already devoting a significant proportion of resources to meet changing regulatory requirements. Small credit unions in Georgia continue to merge at an alarming rate. While on the surface this new rule should mainly affect large credit unions, we feel it will also negatively affect smaller credit unions. We are concerned that the proposal will lead to more credit unions evaluating whether merging with another credit union is a more viable option or whether it is preferable to review other charter options. NCUA states that it is committed to providing regulatory relief to credit unions; if that is true then onerous and unnecessary rules such as RBC (and a possible IRR one) should not be implemented.

We ask that NCUA make the necessary revisions to this rule so that it is not so arduous on credit unions to comply with and implement. In order to give credit unions the time they will need to make changes to their operations to comply with the risk-based capital rule, we ask that NCUA delay implementation of the rule until 2021.

GCUL appreciates the opportunity to present comments on behalf of Georgia's credit unions. Thank you for your consideration. If you have questions about our comments, please contact Selina Gambrell or Cindy Connelly at (770) 476-9625.

Respectfully submitted,

Selina M. Gambrell

Selina M. Gambrell
Compliance Specialist