ALABAMA
credit union

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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:

Thank you for the opportunity to comment on this proposal. ***As a matter of background, Alabama Credit Union serves 62,000 members and has $670 million in assets.*** This letter emphasizes the views of Alabama Credit Union on behalf of our members for the NCUA's second proposed-risk based capital rule (RBC2).

Although RBC2 represents significant improvements over the original proposal NCUA issued in 2014, our position is that it still falls short of being an equitable and useful tool for NCUA and the Credit Union industry. We believe this risk-based capital proposal is an unnecessary solution in search of a problem and will only serve to weaken the industry as a whole rather than to strengthen it. NCUA must always take into account the cooperative nature of credit unions when considering regulatory requirements and does not seem to have done so when crafting these risk based capital proposals which appear to have been constructed in an effort to achieve regulatory requirements comparable to those of the FDIC. ***As a not-for-profit, member owned financial cooperative, Alabama Credit Union believes it is extremely important to highlight and recognize the inherent and significant differences between banks and other publicly traded companies and not for profit entities such as credit unions.*** Credit Unions do not have shareholders and their boards of directors are comprised entirely of volunteer members. Unlike most traditional Financial Institutions, credit unions must build capital solely through retained earnings and are unable to issue stock or offer subordinated debt instruments for the purpose of building capital.

Risk-based capital regulations did not help the banking industry sustain the 2008 Recession. As a result, it appears completely illogical for NCUA to adopt a similar requirement believing it will save the NCUSIF if a similar economic situation were to reoccur. It certainly does not seem realistic to have a RBC system that is written in an effort to avoid virtually all losses to the share insurance fund even in an extremely severe financial crisis. Credit union balance sheets and practices are completely dissimilar from that of the commercial banking industry. NCUA needs to reconsider the negative implications across the movement of requiring Credit Unions to add net worth dollars, the added complexity, and the added information gathering and reporting for the 5300 on a completely unnecessary new ratio. Notably, of the Credit Unions that did fail during the crisis (excepting the NCUA force-closed 3 Corporate CU's) the majority were under the $100 million in assets

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size that won't even be covered by this proposed regulation again evidencing the lack of need for this proposal in its entirety.

We additionally have extreme concerns with regards to the very subjective capital adequacy provision included in the new proposal. The new proposal as written would add a requirement that a credit union must maintain capital commensurate with the level and nature of all its risks and must have a process to determine its capital adequacy in light of its risk and a comprehensive written strategy to maintain "an appropriate level of capital." This provision within the proposal likely would result in field examiners requiring individual credit unions to hold capital above the levels required by the proposal. As a result, we view this as a discretionary regulatory requirement that will be judged in an arbitrary and subjective manner potentially by the hundreds of field examiners nationally during the examination process. Additionally of concern with the model is that it is an imprecise measure that regulators and possibly others will immediately refer to as a precise indicator of safety and soundness and thus it will certainly be over-relied upon.

Within this current proposal, there is still no supplemental capital provision. As a result, in limiting the ability of CU's to increase capital only through earnings, this regulation likely will force some to sell off valuable assets only in an effort to "improve" their ratio position, thus hurting them and the industry in the long run. This is all too familiar within the industry to the requirement for the Corporate Credit Unions to immediately take their perceived OTTI losses, when had many of these investments been retained through to maturity, the significant recognized losses would not have been necessary as many of these investments were no longer underwater when nearing their original maturities.

As 2015 has been recently touted by NCUA as the "Year of Regulatory Relief", this seems counter-intuitive as this major proposed regulatory rule will add significant burdens across the industry. These burdens will not only negatively impact credit unions through the reporting burden, but additionally through the burden of altering the way management makes decisions in efforts first to conform to a rule rather than properly with a focus towards appropriate risk/reward decisions to achieve the most favorable outcome for the Credit Union as a whole.

Just a few examples that demonstrate the lack of need for implementation at all for this RBC2 proposal are detailed below as evidence that many of the requirements are illogical in nature.

- A risk rating of 20% on fully share secured loans continues to be reflected within this current proposal. Fully share secured loans means just that in that the shares securing these loans are pledged against these loans and are not subject to withdrawal until the loan balance is either paid in full or paid below the amount of the shares required to continue securing the loan(s).
- The threshold for non-current (delinquent) loans was changed from 60 to 90 days past due which apparently aligns with the FDIC requirement.

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Although this was a step in a positive direction, it must continue to be emphasized that banks have so many different methods available to them for raising alternative capital that credit unions simply aren't afforded.

- The 300% risk weighting for publicly traded equity investments should be much lower as this will serve to unduly limit Credit Union's investments for employee benefit funding.
- The current proposal does not allow for including the NCUSIF deposit in the RBC numerator. To match the similar requirement for banks, it must be included. A perfect example of this would be that for a credit union converting to a bank charter, the NCUSIF deposit would be returned from NCUA and it would count in their RBC ratio as a bank under FDIC requirements.
- The Complex CU's asset size threshold increased from $50mm to $100mm thus eliminating the requirement for about 800 CUs; however, the requirement still impacts about the same percentage of assets materially across the CU system. As such, the definition of Complex should be more complex than an asset threshold which is much too low.
- Approximately 14 CU's would be required to add $48mm to their capital to regain the designation of well capitalized and this would surely be to the detriment of both their balance sheets and to that of the system as a whole.
- A complex Credit Union could likely need to maintain even more capital and the potential for healthy growth opportunities would be curtailed in many instances thus impacting the CU movement as a whole nationally.
- Based upon recent legal opinions, NCUA likely does not even have the statutory authority to establish a Risk-Based Capital Standard for the purposes of determining whether a Credit Union is well-capitalized. This position is well documented as having been supported by several Members of Congress who were directly responsible for the development of this provision of the FCU Act and who commented on the previous RBC proposal.
- **NCUA has failed to demonstrate a compelling need for the rule. As was noted by Chairman Matz in her December 2011 letter to the GAO, "consumer credit unions performed very well during the worst financial crisis since the Great Depression and NCUA was highly successful overall in mitigating failures and losses for consumer credit unions."** A recent comparison of the performance of the two deposit insurance systems in the U.S., the NCUSIF and FDIC during and after the financial crisis demonstrated the robust credit union capital adequacy and performance under the current structure. The same is certainly is not true of the banking system and thus the FDIC implemented substantial changes to their funding and bank capital requirements. Shortcomings of a similar nature were not revealed for the credit union system, and thus there is no case for NCUA to propose or adopt any of the recent initiatives being considered under RBC2 or any comparable to those launched recently by the FDIC.

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While we appreciate NCUA's attempt to improve the first RBC proposal from 2014, we also believe the RBC2 proposal is fundamentally flawed and, in certain areas, exceeds NCUA's statutory authority. The RBC2 proposal as currently written does not appear to adequately consider the multitude of unintended consequences which if implemented would certainly have extremely negative consequences across the Credit Union industry as a whole.

We respectfully request that the NCUA Rules Making Committee consider all of the overwhelming negative unintended consequences for CU's of this RBC2 proposal as currently written. As stated, we strenuously urge NCUA to withdraw the proposal in its entirety. In lieu of that, we strongly encourage NCUA to make substantial improvements to the proposal consistent with reasonableness and a cooperative positive outcome for the Credit Union movement as a whole.

Alabama Credit Union strives to put our member's needs first by serving our members with the best in class financial products and service offerings. On behalf of Alabama Credit Union as well as the credit union industry membership as a whole, we thank you very much for your consideration of our views.

Best regards,

Eleanor M. Brown

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