

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:

Progressive Credit Union appreciates the opportunity to submit our comments to the National Credit Union Administration Board on its second proposed-risk based capital rule. Our credit union was chartered in 1918, and is an open-charter credit union supervised by the New York State Department of Financial Services. From the very beginning, the credit union's focus has been on small business lending. While Progressive is diversifying into commercial real estate lending, our primary niche market has been taxi medallion funding. The credit union is one of several credit unions that have high concentrations of taxi medallion loans based on the needs of its membership.

1. Footnote 198. The Board in its Section by Section Analysis states that "[s]ome sectors that have experienced minimal losses are now pre-disposed to heightened credit risk" and makes reference to the taxi medallion industry by citing at footnote 198, its April 2014, Letter to Credit Unions 14-CU-06 (Letter 14-CU-06). By incorporating this Letter to Credit Union in the Risk Based Capital Proposal, the Board seeks to elevate guidance and "examination expectations" to a foregone conclusion of heightened risk in the taxi medallion industry. We take exception to this.

This credit union, our legal counsel and representatives of CUNA and others have met with NCUA officials, including the NCUA Executive Director, on August 12, and December 3, 2014, to address our concern that Letter 14-CU-06 includes interpretations that alter the plain words and meaning of the Member Business Loan regulation (MBL rules) and is being imposed as a regulation by NCUA examiners on this and other credit unions.

To have the force of a regulation, Letter 14-CU-06 would need to be, but was not, subjected to a public comment period under the Federal Administrative Procedures Act (APA). NCUA chose to go around that process. We provided the Board with extensive evidence that at least nine elements of Letter 14-CU-06 amended the MBL rules. The Executive Director and Deputy Director of the Office of Examination and Insurance, and others, have repeatedly stated that Letter 14-CU-06 is only guidance to examiners, and promised earlier this year to promptly address and clarify some of these concerns in a Question and Answer paper on Letter 14-CU-06. There has been no such clarification. By including Letter 14-CU-06 in the proposed rule, we have been given our only opportunity to state an objection to this letter through the APA process.

While these comments may appear as a blip compared to the many other issues and comments to the Risk Based Capital proposal, we are dissatisfied that NCUA has not clarified Letter 14-CU-06 or amended that letter to alleviate APA concerns. Letter 14-CU-06 should not have been given any additional weight as a source reference in a proposed rule subject to the APA. NCUA also cites an FDIC "Financial Institution Letter, FIL 39-2014" in the same footnote 198. While Letter 14-CU-16 was intended to be a "consistent framework for the exam and supervision field staff use to review loans secured by taxi medallions," the FDIC document is, by contrast, pure guidance to agricultural lending institution management.

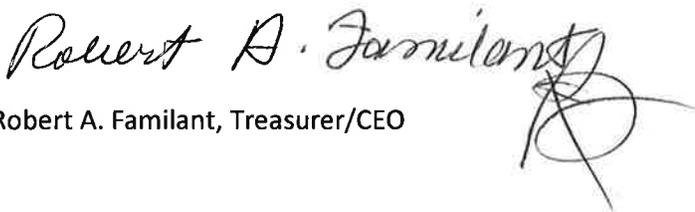
2. Risk Weighting. While the new proposal improves the risk weighting of the original proposal, we believe additional adjustments are needed.

a. CUSOs. The risk weight for unconsolidated CUSO investments should be the same as for CUSO loans, which is 100% under the proposed rule. The Board has provided several reasons in theory it believes a CUSO investment is more risky than a loan to a CUSO. The Board does not, however, provide any evidence that this risk actually exists and any losses actually experienced. The Board has the same access to any CUSO information from a credit union loan or investment. Section 712.3 of the CUSO regulation provides "(d) *CUSO accounting; audits and financial statements; NCUA access to information.* A FICU must obtain a written agreement from a CUSO before investing in or lending to the CUSO...." If NCUA has additional concerns with CUSO investments, those concerns should be substantiated by NCUA and addressed in the CUSO regulation or by examiners with specific and substantiated concerns.

b. Member Business Loans. The new proposal imposes a 150% risk weight (Category 6) on loans made by our credit union and a relatively small group of others that are permitted by law to exceed the member business loan limits (and those with waivers to do so); these are primarily credit unions chartered to make taxi and agricultural loans. It is difficult to know the effect of using a single risk weight measure for all credit unions in this category. The Board cites a GAO report on bank failures with commercial loans as one of the basis for the new risk weight. That was the same report that was used as the basis for the original proposal's risk weight. The proposed risk weight, like the one it is supposed to replace and the one that was supposed to replace that one, are arbitrary and not based on experience. NCUA needs to clarify how it settled on this risk weight after proposing a different risk weight allegedly based on the same information.

Again, thank you for the opportunity to submit our comments. We look forward to the Board's response to these and the other public comments.

Sincerely,  
Progressive Credit Union



Robert A. Familant, Treasurer/CEO