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April 24, 2014

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

Re: RIN 3133-AD77 Prompt Corrective Action – Risk-Based Capital Proposal

Dear Secretary,

On behalf of GECU, the largest locally owned credit union in El Paso, TX, this letter is in response to the request for comments regarding the revised proposed Prompt Corrective Action – Risk-Based Capital Rule. GECU currently serves a membership of over 329,000 with assets greater than $2 billion.

GECU commends the National Credit Union Administration (NCUA) for its consideration of the comments from over 2,000 respondents concerning the initial risk-based capital proposal in developing a second proposal. Although there have been a significant number of substantial improvements based on the feedback received from the credit union industry, as currently drafted, the proposal still raises serious concerns for all federally insured natural person credit unions, as further outlined below.

Risk-Based Capital System
12 U.S.C §1790d(b) Prompt Corrective Action
While the Federal Credit Union Act requires the NCUA to establish a risk-based capital system comparable to the capital system requirements banks are currently subject to, it also requires that NCUA take into consideration the cooperative nature of credit unions. This proposal has failed to consider that credit unions are not-for-profit entities which maintain entirely volunteer Boards and do not conduct business in the same manner as banks. Credit unions maintain a different risk model than banks and thus should be subject to different risk mitigation techniques.

Definition of Complex
§702.103 Applicability of the risk-based capital ratio measure
Additionally, while the new proposal has raised the threshold for defining a credit union as complex from $50 million to $100 million in assets, it is imperative that NCUA consider that asset size is not a sufficient determinant of a credit union's complexity.

Risk-Weights for On-Balance Sheet Assets
§702.104(c)(2) Risk weights for on-balance sheet assets
The revised proposal provides a number of positive adjustments to risk-weights, including the removal of weighted average life component for investments and changes to the risk-weighting for higher concentrations of real estate and member business loans. Furthermore, defining 1-4 family non-owner occupied mortgage loans as residential loans for the purpose of this rule and subjecting them to lower risk-weights rather than classifying them as business loans is of great benefit to credit unions and GECU in particular.

However, other risk-weight categories remain too high in many areas and the risk-weights for mortgage loans, member business loans, mortgage servicing, and certain investments exceed that of banks in multiple categories. The risk-weights also do not consider the nature of the credit union movement as they encourage the reduction of member service offerings of residential mortgage loans and member business loans, while creating a need to raise additional capital which could result in higher loan rates and fees. The risk-weights also do not take into account traditional credit risk factors, such as loan-to-value.

<u>Risk Weights for First Lien Residential Mortgage Loans</u>
Specifically, the risk-weights for first lien residential mortgage loans do not reflect the industry changes, such as the passing of the Dodd-Frank Act and the development of the Consumer Financial Protection Bureau, which have radically transformed the mortgage industry and reduced the risk of a reoccurrence of the recent housing market crisis. The proposal would require higher levels of capital for credit unions that maintain more than 35 percent of assets in first lien residential mortgage loans than that currently required of banks. This will put credit unions at a great disadvantage against competitors and create greater costs to originate mortgages, ultimately harming consumers and damaging the credit union mission.

<u>Risk Weights for Commercial Loans</u>
The risk-weights for commercial loans in the proposal require the entire commercial loan, not just the amount over $50,000 to be subjected to risk-weighting. This does not align with the definition of a commercial loan under the NCUA's business lending rule. Additionally, commercial loans over 50 percent of assets would also have a higher risk-weighting than banks, 150 percent versus 100 percent. Considering credit unions do not have higher levels of risk associated with commercial loans than banks, it is unjustified to require credit unions to hold higher capital levels than banks in this area. It is the credit union mission to provide service to small businesses. Providing higher risk-weights than those required of banks places credit unions and ultimately consumers at an extreme disadvantage.

CUSO Investments
§702.104(c)(2) Risk weights for on-balance sheet assets
While we support the treatment of consolidated credit union service organization (CUSO) investments, the weighting for nonconsolidated CUSO investments does not take into account the nature of, or the historical performance of the CUSO. CUSOs offer a range of services and the risk of these services is not reflected in the assigned risk-weight of 150 percent for investments in unconsolidated CUSOs. Many credit unions would be less likely to invest in CUSOs, thus reducing opportunities for credit union growth and reducing critical member service offerings. The risk-weighting for unconsolidated CUSO investments should be the same as for CUSO loans, which is 100 percent. This would be more aligned with the risk associated with the investment and allow credit unions to continue to support the credit union movement. Further, the NCUA recently finalized a rule providing additional supervision of CUSOs; therefore further regulation for these investments is not needed.

Written Capital Adequacy Plan
§702.101(b) Capital adequacy
While the provision regarding individual additional minimum capital has been removed in this proposal, the revised proposal would require covered credit unions to develop a written capital adequacy plan to address the sufficiency of their capital on a continuing basis, and set aside capital that is over and above the net worth and risk based capital requirements. This plan, including the amount of additional capital set aside, would be subject to examiner review. This would grant examiners the discretion to determine whether a credit union needs additional capital regardless of whether it is classified as well-capitalized according to net worth and risk-based capital ratio requirements. Rather, such an assessment should be made on a case-by-case basis based on an individual credit unions' risk and capital levels rather than through a blanket rule making.

Implementation Period
We appreciate that the NCUA has extended the proposed implementation period to 2019; however given the complexity of the proposal and the extensive compliance requirements, additional time is needed for credit unions to implement the necessary changes to ensure compliance. This is particularly true in the absence of authority to raise supplemental forms of capital other than retained earnings. In contrast, small banks have been provided nearly nine years to implement the Basel Capital standards.

Conclusion

As it stands, the revised proposed Prompt Corrective Action – Risk-Based Capital Rule would significantly inhibit credit unions' ability to provide essential services to members by implementing stricter requirements for GECU's assets deemed risky by the rule, including residential mortgages, member business loans, and long-term investments. We urge the Board to consider the potentially adverse impact this proposal may impose on credit unions and its members by reconsidering the nature of credit unions as it relates to this rule, the definition of complex for coverage of this rule, the proposed risk-weights, particularly those assigned to real estate, commercial loans, and CUSOs, the need for a capital adequacy plan for all covered credit unions, and the extension of the implementation period.

We appreciate the opportunity to comment on the proposal. If you have questions regarding our comments, please contact me at (915) 774-8203.

Sincerely,

Crystal Long
President/CEO

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