CREDIT UNION
westerra

April 27, 2015

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

Re: Comments on Proposed Rule: Prompt Corrective Action – Risk-Based Capital

Dear Mr. Poliquin,

Thank you for the opportunity to provide comments on the revised proposal to amend NCUA regulations regarding risk-based capital requirements. Westerra Credit Union ("Westerra") is a community-based credit union serving over 94,000 members in the greater Denver metropolitan area, with approximately $1.29 billion in assets and a net worth ratio of 12.23%.

Westerra supports the NCUA's efforts to reform risk-based capital for credit unions. However, such reform must appropriately balance the need for higher capital levels at credit unions with higher risk exposures with the fact that the credit union industry overall performed well through the most recent economic crisis. Additionally, consideration must be given to the fact that there are statutory limitations on supplemental forms of capital for credit unions. Without access to supplemental forms of capital, complying with the new risk-based capital requirement could force credit unions to limit lending, thereby reducing availability of credit for consumers and small businesses. This would be detrimental to long-term economic growth and is not consistent with the mission of credit unions to provide access to affordable credit to consumers.

We commend the NCUA for its efforts to improve risk-based capital requirements, however the revised proposal contains elements that could adversely impact the ability of credit unions to maintain and build long-term strength of capital. Below are several areas of concern and possible alternatives for the NCUA Board's consideration.

Capital Adequacy Plan Requirement

The revised proposal includes a requirement for credit unions to create a capital adequacy plan. The proposal notes that this requirement would not affect a credit union's Prompt Corrective Action (PCA) capital category, but would be used by examiners to support the assessment of capital adequacy in the supervisory process. Westerra agrees that credit unions should have internal processes for assessing capital adequacy that reflect a full understanding of risk. However, requiring a formal capital adequacy plan would create exposure to inconsistent examiner evaluation of the adequacy of capital planning, which could then serve as a mechanism to require higher risk-based capital levels for some credit unions. The NCUA should remove this provision from the revised proposal.

Working For You

Interest Rate Risk
Westerra supports the revised proposal's removal of interest rate risk (IRR) measures as a component of risk-based capital calculations. The Board has requested comments regarding alternative approaches to incorporate IRR measures into capital standards. However, sufficient regulation and guidance already exists to effectively account for exposure of capital to IRR, including:

- 12 CFR Part 741.3
- The January 2010 Interagency Advisory on Interest Rate Risk Management
- The May 2012 NCUA Letter to Credit Unions (12-CU-05)
- The September 2003 NCUA Letter to Credit Unions (03-CU-15)
- The July 2003 NCUA Letter to Credit Unions (03-CU-11)
- The August 1999 NCUA Letter to Credit Unions (99-CU-12)

As such, IRR measures should be excluded from the risk-based capital framework.

Supplemental Capital
All forms of capital as defined by the Federal Credit Union Act (FCUA) and that are consistent with Generally Accepted Accounting Principles (GAAP) should be included in the risk-based capital ratio numerator. It is critical that the NCUA continue to work with Congress to grant increased access to supplemental forms of capital to all credit unions, and to ensure that supplemental capital will count toward the net worth leverage ratio and the risk-based capital ratio. A lack of access to secondary capital could result in credit unions limiting lending to meet risk-based capital requirements, thereby reducing credit availability to consumers and small businesses, which would be detrimental to long term economic growth.

Well-Capitalized versus Adequately Capitalized Standard
The revised proposal continues to establish a *well-capitalized* threshold for risk-based capital; however the Federal Credit Union Act references only an *adequately capitalized* standard. While the NCUA has released a legal opinion indicating that a court "could" conclude that the NCUA is within its statutory authority to establish a two-tier risk-based net worth requirement, questions remain about whether a court should or would come to that conclusion. Westerra continues to be concerned with the appropriateness of establishing a *well-capitalized* threshold. Additionally, the National Credit Union Share Insurance Fund (NCUSIF) performed well during each of the past two financial crises, and the NCUA has not established that the higher standard proposed by the new rule would improve upon the safety and soundness of the NCUSIF. Risk-based capital standards should be established relative to the adequately capitalized measure as provided under the Act.

Concentration Risk Weightings
The revised proposal continues to apply a system of escalating weightings for increased concentrations to assess risk. While the risk weightings and concentration thresholds for affected categories were adjusted to more reasonable levels, the concentration weightings continue to exceed FDIC requirements for banks in some situations. In addition, total risk to capital cannot be effectively measured by portfolio concentrations alone. The <u>quality</u> of a loan portfolio is the most significant determinant of potential risk to capital, rather than concentrations. Westerra's mortgage loan holdings consist almost entirely of high FICO, low LTV loans, which would pose significantly less overall risk to capital than a portfolio with low

FICO, high LTV loans at a similar sized institution. The current proposed calculation would not account for the difference in risk between these two portfolios. Instead of focusing on concentrations, the proposed rule could more effectively account for credit risk by differentiating real estate loan risk weightings based on loan-to-value and/or credit scores at the time of origination.

Goodwill

While the revised proposal includes a phase-out period for Goodwill acquired through certain transactions, it excludes Goodwill from the risk-based capital ratio formula in the long run. Westerra is concerned that this treatment of Goodwill will discourage credit unions from taking on troubled credit union mergers due to the negative impact to capital. This would raise the cost of resolving troubled credit unions which will negatively impact the whole credit union system. Goodwill should not be treated as a deduction from capital.

NCUSIF Capitalization Deposit

While the NCUA acknowledges the significant number of concerns noted by credit unions, the revised proposal continues to exclude the NCUSIF deposit from both the risk-based capital ratio numerator and denominator. The NCUA has previously stated that this treatment would not alter the accounting treatment for credit unions. However, if the risk-based capital calculation fails to acknowledge the value of the deposit to credit unions then auditors may interpret GAAP differently and require all credit unions to write-off the value of that investment, thereby negatively impacting net worth across the entire system. The NCUSIF Capitalization Deposit should not be treated as a deduction from capital.

Westerra supports the NCUA's efforts to reform risk-based capital requirements. However we recommend that the revisions and considerations noted above be incorporated into the revised proposal to prevent adverse impacts to the industry. It is in the best interests of credit unions, credit union members, the NCUA and the NCUSIF to have an appropriate risk-based capital regulation that encourages sound risk management while also positioning the credit union industry for success for the benefit of its members.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact us.

Sincerely,

Jennifer Meyers
Chief Financial Officer

David Cic
Vice President of Enterprise Risk Management and Compliance

Cc: John McCloy, President/CEO
Jim Kullhem, Board of Directors, Chairman