

April 27, 2015

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

RE: ***Proposed Risk-Based Capital Rule RIN 3133-AD77***

Dear Mr. Poliquin:

On behalf of Patriot Federal Credit Union (PFCU), I appreciate this opportunity to offer constructive comments on the National Credit Union Administration's (NCUA) proposed rule to amend Part 702 of the agency's regulations on prompt corrective action and risk-based capital. PFCU is a community credit union holding over \$510 million in assets, serving over 51,000 members in Franklin and Fulton Counties in Pennsylvania and Washington County in Maryland, and we're celebrating our 50th anniversary this year.

PFCU strongly believes this rule will stifle growth, innovation and diversification within the credit union industry. I appreciate this opportunity to provide comments on this important proposal, and specifically our thoughts on legal authority and costs, the definition of a complex credit union, interest rate risk, supplemental capital and risk weights.

### **Legal Authority & Costs**

Let me begin by commending the NCUA for its concern and focus on ensuring credit unions operate within a reasonable risk-based capital system. I strongly support, as most credit unions do, a system that reflects lower capital requirements for lower-risk credit unions and higher capital requirements for higher-risk credit unions. Currently, the Federal Credit Union Act does authorize NCUA to establish capital requirements for complex credit unions, focusing on net worth and this capital standards rule (i.e., Prompt Corrective Action) has served credit unions well even throughout the so-called "Great Recession" with no significant negative impact on the National Credit Union Share Insurance Fund (NCUSIF). The current capital adequacy rule stating that a 7% net worth ratio is a well-capitalized credit union, has worked well. However, we question the need for a new rule and whether, without specific Congressional authority, NCUA has the legal authority to adopt a new risk based net worth system. The FCU Act does not provide NCUA the express authority to implement a separate risk-based net worth threshold for the "well capitalized" net worth category.

Also, we are deeply concerned about the cost of this proposal. Specifically, in addition to costing NCUA millions of dollars to read the rulemaking and to adjust Call Reports, it will require credit unions to needlessly hold hundreds of millions of dollars in additional reserves, as a capital cushion. And the funds used to meet these new onerous requirements would be monies that could otherwise be used to make loans to consumers or small businesses and aid in our nation's economic recovery. The requirements in this proposal will serve to restrict lending to consumers from credit unions by forcing them to park capital on their books, rather than lending to their members and businesses and aiding in our nation's economic recovery.

The proposed rule could prevent our credit union from pursuing what we believe is a safe, conservative and innovative opportunity related to our employee benefits costs. As healthcare costs rise we are looking for ways to offset costs such as investing in bank-owned life insurance (BOLI). In addition, our credit union is also considering offering member business and loan participation programs to meet lending needs within our community. However, under this proposal we may be forced to not pursue these opportunities which could result in reductions to our employee benefit plan and reduced lending capacity in our community.

### **Complex Credit Union**

The proposed rule arbitrarily considers a credit union "complex" if it has assets greater than \$100 million. We do not believe the size of a credit union determines whether its balance sheet is complex. Instead, NCUA should remain in sync with the Federal Credit Union Act which requires the NCUA to consider the portfolio of assets and liabilities of credit unions when determining whether they are complex, not asset size. Whether the product or services are member business loans, participation loans, indirect loans, real estate loans, or particular types of investment vehicles, is not determinative of whether a credit union has too much complexity on its balance sheet. What matters is whether the balance sheet makeup coincides with a credit union's well thought out business plan and income producing strategies. And, any capital adequacy system should strike a reasonable balance between safety and soundness and ensuring that credit union management has appropriate discretion to manage its balance sheet in a prudent, thoughtful manner and serves the best interests of its members.

### **Interest Rate Risk**

We commend the NCUA for removing the IRR component from the risk based capital proposal and believe NCUA already has sufficient guidance in place to measure credit union capital adequacy related to interest rate risk and can continue to apply industry accepted methods as part of a competent supervision and examination process. In addition to the agency's current IRR rule, it has already provided credit unions with clarification regarding interest rate risk through NCUA letters to credit unions, (12-CU-05) and (14-CU-01). And should the NCUA promulgate any future revised IRR rule, we strongly encourage the agency to avoid restricting growth opportunities, or restricting our ability to assist members with products and services they want and need, which would ultimately result in less capital growth. Simply put, NCUA's existing supervisory and examination mechanisms provide the agency the appropriate ability to control IRR at individual credit unions.

### **Supplemental Capital**

We are concerned that the proposed RBC2 rule does not provide any changes that would allow credit unions the authority to raise supplemental capital. Supplemental capital authority is needed now more than ever considering the restrictions brought on by this proposal due to the inherent

extreme stress placed on retained earnings alone if this RBC2 rule is adopted. Allowing eligible credit unions access to supplemental capital, in addition to retained earning sources, will help ensure healthy credit unions can achieve manageable asset growth and continue to serve their member-owners efficiently.

NCUA should call on Congress to pass a legislation solution that modernizes capital standards to allow supplemental capital and direct the NCUA Board to design a risk-based capital regime for credit unions that takes into account material risks instead of the current proposed rule.

### **Risk Weights**

Although we support the lowering of many risk weights in the RBC2 proposal, the rule still remains unnecessarily complex particularly as it relates to member business loans and real estate loans. And overall, the RBC2 proposed risk weights remain too high, given the conservative nature of credit union risk management practices and due to the lack of any evidence that credit unions are operating in a risky manner with these commonly offered lending services.

### **Conclusion**

The strength of credit unions in the aftermath of the “Great Recession” and today, is strong evidence there is no need for an “additional” capital adequacy system. And, we do not believe the NCUA has the required statutory authority to adopt a new system. Also, over the years our credit union as well as many others, have experienced “micromanagement” of credit union management decisions. And because the evaluation of balance sheet decisions are very subjective, should NCUA move forward and adopt this new, onerous capital adequacy system, the agency needs to include in any final rule a robust appeals process. Credit unions should be given an avenue to explain their business decisions and how they relate to their business model, should they feel an examination team does not understand their business model or its approaches to revenue growth. An RBC2 appeals process would adequately balance the interests of legitimate NCUA examination teams and credit unions.

Thank you for your time and attention to our comments on the RBC2 proposed rule. We look forward to continued growth and prosperity at PFCU and trust NCUA will act to ensure an environment of growth, innovation and diversity of balance sheet approaches for America’s credit union industry.

Respectfully,

Peggy Bosma-LaMascus  
President & CEO