

April 24, 2015

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

RE: Comments on Proposed Rule: PCA - Risk-Based Capital

Dear Mr. Poliquin:

Thank you for the opportunity to submit comments on the National Credit Union Association (NCUA) Board's second proposed risk based capital rule (RBC2). While we appreciate the NCUA's proposed revisions to the Risk Based Capital rule as originally proposed we still have concerns over the rule as currently proposed. A few brief statistical facts about Eagle Community Credit Union, located in Southern California, assets of \$224 million and serving 19 thousand members consisting predominately of United States Postal Employees and US Federal Employees in our area. The NCUA's efforts to match those of the FDIC do not take into consideration the core differences between the credit unions and banks regulated by these authorities. Application of the same risk based capital standards to credit unions that are unable to increase capital through alternative sources or stock offerings is much more restrictive than the rules imposed on banks. We do not feel that this was intended or in the spirit of the mandate given to the NCUA and does not take into account the cooperative nature of the credit unions or current statutory limitations on a credit unions' ability to raise alternative capital.

**Rule compliance and complex credit unions:**

The NCUA has defined complex credit unions based solely on asset size without regard to the actual operations or risk within the balance sheet. While it can be argued that this is the most efficient method of which credit unions should be required to comply with the rule it ignores the actual risk credit unions hold on an individual basis. The NCUA has the tools and resources available to determine on a case by case basis which credit unions are complex by virtue of the products and services that are offered rather than simply by asset size. As is the case with the current Derivative regulation established by the NCUA the asset size delineation will prevent some credit unions that would benefit greatly from a product from recognizing that benefit. In the RBC case additional reporting and cost burdens will be placed on credit unions that are not complex by virtue of their simplistic operations models.



It has also been stated that the risk based capital rule was needed in part to prevent credit unions from assuming too much risk as the NCUA did not have the statutory authority or resources to prevent credit unions from taking on this additional risk. I would have to strongly disagree with this logic as during our most recent full contact there were over 10 examiners on site for a period of almost 30 days, which represents 16% of our credit union staff size. During the examination the NCUA lowered the credit unions concentration risk limits, interest rate risk limits and net economic value limits based upon what they felt were reasonable limits. The tools used by the NCUA to ensure credit unions compliance with request (letters of understanding and cease and desist orders) have always been in place and are used on a regular basis.

One of the key questions remains as to if a separate RBC requirement for well-capitalized credit unions is permissible under the Federal Credit Union Act. This fact was specifically questioned by NCUA Board member J. Mark McWatters. There is no evidence that the RBC risk based capital rules currently utilized by the banking system promote safety and soundness to a larger degree than the current capital standards required by the NCUA.

### **Cost and Increased Regulation:**

The NCUA has been promoting a more streamlined regulatory process and a lesser degree of reporting requirements on the part of the regulated credit unions over the past year. By the NCUA's own estimates the cost of implementing this plan will exceed \$3.7 million. Implementation will also increase the ongoing reporting burden on all credit unions. The NCUA has estimated that the proposed RBC rule will affect only 19 of the 1,455 credit union that will be subject to the rule. Would the total cost of implementing the plan be better spent training and providing continuing education services for NCUA examination staff or allocating examination staff to those credit unions that are believed to be undercapitalized for their current risk levels?

The Call Reporting process is becoming more and more complex as the NCUA continues to require unique and specialized information. The internal tracking and monitoring that credit unions must maintain to meet the Call Report requirements are increasing operational cost to every credit union at a time when NCUA Examination staff are requiring credit unions to reduce expenses.

### **CUSO Investment Risk Weight:**

The risk weight assigned for investments in CUSO's of 150%, while reduced from the original proposal remains excessive. The CUSO model utilized by credit unions allows for the offering of additional products and services to credit union members at a reasonable cost. The burden often borne through the operation of multi-credit union owned and operated CUSO's. The cost of providing these services by each credit union individually would be prohibited for many credit unions.

The risk weight assigned does not account for the financial strength of each CUSO but rather imposes a penalty on each participating credit union for participation in the CUSO regardless of the strength. The rule assumes that all CUSO investments carry a substantial degree of risk and treats all CUSO operations in the same fashion.

The excessive risk weight applied to investments in CUSO's could limit the ability of many credit unions to participate in CUSO offered services. Reducing the financial services that can be offered to credit union members, eliminating efficiencies that can be obtained through joint operations and potentially eliminating income opportunities for participating credit unions is the end result of a credit unions inability to participate in a CUSO.

### **Treatment of Goodwill:**

The proposed treatment of goodwill determined in a "supervisory" merger will be allowed to be included in the numerator of the RBC calculation until 2025. The elimination of this treatment of goodwill could very well impact future mergers and increases the burden on the share insurance fund.

Failed or troubled credit unions have historically been absorbed by healthier credit unions with the assistance of the NCUA. A reduction in "supervised" mergers would result in a more significant cost to the share insurance fund as the number of credit unions that could successfully be merged are liquidated in their entirety.

### **Capital Adequacy Plan Requirements:**

The proposed rule adds additional requirements for "complex" credit unions to maintain capital commensurate with the level of risk have a process to determine appropriate levels of capital given the risk and develop a written strategy to maintain appropriate levels of capital based upon the assumed risk.

This allows the NCUA examination staff an inordinate amount of leeway in deciding that the appropriate level of capital as determined by the credit union is inadequate and requiring the credit union to hold additional capital over and above the those required by the proposed regulation. This is often the case currently when examining interest rate and net economic value limitations used by credit unions in their ALM process. It is not uncommon for the examination staff to require credit unions to arbitrarily reduce limits to what the examiner feels is an appropriate level without any justification.

### **Interest Rate Risk:**

The NCUA intends to address interest rate risk through a separate rule to be proposed at a later date. A new IRR rule is not needed as it was addressed in 2012 when the current IRR requirements were adopted.

Interest rate risk must be measured on a case by case basis, applying a singular set of limitations on all credit unions regardless of size and complexity of operations is not reasonable. Currently interest rate risk is evaluated during the examination process based on each credit unions operation. Even in the current process the examination teams have required that credit unions lower IRR thresholds without proper justification. The onsite examination teams seem to have a

predetermined outlook on future interest rate changes and require credit unions to reduce limits to fit their assumptions rather than take into account managements past performance and actions in light of changes in interest rates and how the risk has been historically managed.

**Supplemental Capital:**

Supplemental capital should be allowed for any complex federally insured credit union to meet RBC requirements. While supplemental capital cannot be included when calculating net worth for under current statue it would be permissible for inclusion in the RBC calculation as proposed by the NCUA.

One of the core differences between the current bank risk based capital measurements and that proposed for credit unions is the ability of a bank to increase capital through the issuance of additional stock. We encourage the NCUA to seek legislation that would enable credit unions to obtain secondary capital from alternative means that could be included in net worth for the purpose of prompt corrective action. The NCUA has long noted that it was in support of this action and we hope that it continues to pursue legislative relief.

Thank you for the opportunity to comment on the Proposed Rule and listening to our concerns. Please contact me with any questions or comments you may have regarding my response.

Respectfully submitted,



William Birnie  
President/CEO  
Eagle Community Credit Union  
(949) 639-7832  
bbirnie@eaglecu.org



Scott Rains  
Chief Financial Officer  
Eagle Community Credit Union  
(949) 639-7834  
srains@eaglecu.org