From: Steve Williams <no-reply@cuanswers.com>
Sent: Friday, February 27, 2015 2:07 PM
To: _Regulatory Comments
Subject: Risk-Based Capital Comment

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From: Steve Williams
CU*Answers

02/27/2015

Dear Mr. Poliquin:

Our credit union leadership team feels that while there is no question the NCUA did make changes in the RBC rule with respect to such items as the definition of “complex” credit unions, eliminating IRR, and extending the implementation timeframe, the impact to the industry if RBC2 is passed remains highly suspect and likely detrimental. Although the proposal was 450 pages, far too many were reviews of the comments and the NCUA’s rebuttal or disregard of them. In a vacuum, the changes accepted by the NCUA would appear good but in fact are designed to draw credit union leadership away from impact of the rule as a whole. We believe that the RBC rule will increase costs to members, expand the right of the NCUA to interfere in the governance of credit unions through Prompt Corrective Action (“PCA”), and threaten the financial stability of the industry long term.

As pointed out in the Hon. J. Mark McWatters’ dissent, the NCUA has pivoted away from its own long-standing interpretation of Section 216(d) of the Federal Credit Union Act. In 2007, the NCUA asked Congress to amend the regulation because you said the NCUA needed additional authority to create a two-tiered Risk Based Capital test. Can you explain why you suddenly believe the NCUA has the authority to do so, when your past practice has been the exact opposite?

The NCUA is straining hard to justify its legal interpretation of a Rule that has significant practical problems. The $100,000 asset size cut off is arbitrary. The risk weighting is arbitrary. Adherence to this rule could cause credit unions to build up concentrations in assets that turn out to be risky. Why doesn’t the NCUA allow for a rule that allows for supplemental capital, which would likely be far greater benefit to the industry and greatly reduce the risk to the Share Insurance Fund? Finally, why should the industry accept RBC when it suffers from these problems and may very well be an overextension of the NCUA’s authority in any event?

I would like to recommend that the NCUA truly believes that this rule will uncover the outliers and those credit unions that should operate with higher levels of capital than make this rule a test similar to those currently being performed like the 17/4. The OCC has numerous ratios and tests which they perform based upon call report information such as the canary ratios. These ratios are designed to uncover outliers and direct supervision in these areas to review.

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