

Regulatory Comments

From: Kenneth Scherer <no-reply@cuanswers.com>
Sent: Wednesday, March 18, 2015 2:30 PM
To: _Regulatory Comments
Subject: Risk-Based Capital Comment

To: Regulatory Comments
From: Kenneth Scherer
Mountain River Credit Union

03/18/2015

Dear Mr. Poliquin:

I believe the revised RBC rule penalizes credit unions for specific activities such as real estate lending, member business lending, and credit unions chartered to assist the un-bankable by placing a capital tax on the resulting assets of low income or poor credit lending. We believe the end result will be thousands of homogenous balance sheets in 2025 that you can easily understand from a supervisory perspective. However, this current risk posture of the NCUA cannot fail but to lead credit unions to shy away from diversity or cooperative reason for the charter and field of membership. The end result of this rule will ultimately force credit unions into potential areas of investment and lending that the credit union lacks experience with or create industry wide concentrations that could be impacted by similar economic variables. In and of itself, this rule creates more risk than it proposes to control.

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 should reconsider implementing a two-tiered RBNW that is at odds with the agency's past interpretation of its powers, and which conflicts with the plain language and intent of Congress. Not only has an NCUA Board Member strongly dissented from the NCUA's proposed Rule, but the legal foundation the NCUA is relying upon is weak. Much of the weaknesses in the NCUA's arguments can be found directly in the memo prepared by the Paul Hastings, LLP, law firm, for the NCUA Board.

Our credit union board and management team are making numerous decisions about the composition of our balance sheet and capital adequacy based on the needs of our unique membership and local community. These factors do not just take into consideration the asset type, but include the reasons for our charter to begin with, corresponding funding from liabilities, and unique economic needs of the communities they serve. These thousands of local decisions are driven by diverse business priorities, pricing and growth objectives as well as responses to unique local needs. We believe our decisions have resulted in varied portfolio strategies which enhance the balance sheet's overall soundness rather than a single approach nationwide to risk management. RBC2 puts that at risk.

When CUs are engaged in a daily, hand-to-hand struggle to help folks improve their lives, to encourage their hopes, to educate their kids, and to find a way to stretch shrinking paychecks to the end of the month: then yes, I get angry and incensed by silly people, sheltered from accountability and the hard realities of this desperate

economic struggle who recklessly and insensibly make our tasks unnecessarily more difficult. RBC needs to go.

We must stop the debate about the nuances of the rule and convince the NCUA, after outlining the substantial objections, that the modeling approach needs to be tested and tried in the examination process as a tool and then the results shared with the industry before suggesting that a model be embedded in a law.

A handwritten signature in black ink that reads "Kenneth Scherer". The letters are bold and somewhat stylized, with a cursive-like flow.

Kenneth Scherer
Mountain River Credit Union