From:	John McKenzie
To:	_Regulatory Comments
Subject:	Indiana Credit Union League Comments on Advanced Notice of Proposed Rulemaking for Supplemental Capital
Date:	Tuesday, May 09, 2017 4:03:42 PM

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

Re: Comments on Advanced Notice of Proposed Rulemaking for Supplemental Capital

Dear Mr. Poliquin:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the National Credit Union Administration's (NCUA) Advanced Notice of Proposed Rulemaking (ANPR) addressing supplemental capital. The ICUL member credit unions represent 97% of assets and members of Indiana's credit unions, with those memberships totaling more than 2.4 million consumers.

The ICUL supports NCUA in efforts to develop a workable and sustainable regulation enabling credit unions to accept alternative forms of capital. The ANPR addresses two types of alternative capital: 1) secondary capital, which is currently an option for low-income designated credit unions (LICUs) and 2) supplemental capital. We support both enhancing the existing secondary capital program and the creation of a new supplemental capital option for credit unions. In the future, if a minimal risk opportunity presents itself to secure legislative changes whereby the two forms of alternative capital can be simplified into one, we would encourage consideration for that.

In its ANPR, NCUA proposes some modifications to the existing secondary capital regulations for LICUs. This form of alternative capital remains important as an option for LICUs to improve both the leverage ratio and risk-based capital (RBC) ratio as they develop new and enhance existing programs to meet the needs of their memberships. NCUA has focused on identifying credit unions that meet the criteria for a low-income designation. Secondary capital remains an important tool for these credit unions to expand services to the low-income segment of their fields of membership (FOMs) and still maintain a capital base that meets NCUA's prompt corrective action (PCA) regulation requirements.

In the ANPR, NCUA requests feedback on the following potential changes to the secondary capital regulations:

- Allowing for broader call options for the low-income designated credit union, other than just the portion no longer counting as net worth and subject to NCUA approval, if provided for in the secondary capital contract.
- Relaxation of pre-approval of issuing secondary capital if a low-income designated credit union meets certain conditions such as being at least adequately capitalized and having prior experience issuing secondary capital.
- Inclusion of more flexibility to fund dividend payments as an operating loss if provided for in the contract.
- Reorganization of the regulation to improve clarity by moving to part 702 (Prompt Corrective Action) all matters related to how the instrument must be structured to qualify for capital treatment.

We believe that NCUA should make changes to the secondary capital regulations that would add greater flexibility to the use of this alternative capital. Increased flexibility would encourage more LICUs to consider this option. We would also encourage NCUA to consider expanding the pool of potential secondary capital investors to include natural person members, recognizing that the structure of this type of capital does not include voting rights, and does not dilute the member-ownership structure of the credit unions.

Additionally, in the ANPR, NCUA is requesting feedback on developing regulations that would allow all federal credit unions to access supplemental capital. This type of capital account would be in the form of uninsured accounts issued as borrowing, and would be subject to applicable statutory borrowing limits. This capital would be subordinated to the Share Insurance Fund and available to cover losses that exceed retained earnings of the credit union. Due to the current statutory definition of net worth, this form of alternative capital would only be included in calculating the risk-based capital ratio for purposes of PCA capital requirements. We strongly support NCUA efforts to develop regulations that would enable federal credit unions (and state-chartered credit unions where state law allows) to accept supplemental capital accounts. We encourage NCUA to continue to look for alternative forms of capital that may meet the GAAP requirements to be included in the calculation of the leverage net worth ratio as well.

NCUA has requested input on the structure these accounts should have. The current secondary capital regulations provide a starting point for the structure discussion. The April 12, 2010 NCUA *Supplemental Capital White Paper* prepared by NCUA's Supplemental Capital Working Group also discusses several alternatives for how these accounts could be structured. Three options were discussed in the white paper: Voluntary Patronage Capital (VPC), Mandatory Membership Capital (MMC) and Subordinated Debt (SD). We believe that all three of these options are good starting points for reviewing structure options. Both the VPC and MMC models would be available to natural-person members, which we believe is an important component of any supplemental capital program to maintain the member-owned, cooperative structure of credit unions that is one of the pillars of the tax-exemption. The SD option discussed in the white paper is focused on institutional investors (which could also be institutional members). Maintaining these accounts as non-voting accounts would again maintain the member-owned structure of the credit union.

As presented in the white paper, we encourage NCUA to not limit itself to only one form of supplemental capital, but rather develop a menu of options that credit unions can utilize. As other regulations create or encourage increasing risk in the balance sheet (e.g. RBC and MBL rules), alternative capital becomes an important option for managing this risk both for the credit union and the Share Insurance Fund.

Thank you for the opportunity to comment on the ANPR addressing both secondary and supplemental capital. We are encouraged that NCUA recognizes the need to address the ability of credit unions to increase capital in ways other than retained earnings. As the capital rules become more complex with the implementation of the new risk-based capital rules, flexibility will be even more important for credit unions. We encourage NCUA to continue to look at ways credit unions can utilize alternative capital to meet the needs of their members and the PCA and RBC capital requirements. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

John McKenzie

John McKenzie
President, Indiana Credit Union League