BANKING – THE DCU WAY

VIA EMAIL: regcomments@ncua.gov

May 9, 2017

Mr. Gerald Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428

Re: Advance Notice of Proposed Rulemaking for Alternative Capital (12 CFR Parts 701, 702, 703, 709, 741, and 745)

Dear Secretary Poliquin,

On behalf of Digital Federal Credit Union (DCU), thank you for the opportunity to provide comments on the National Credit Union Administration's (NCUA) Advance Notice of Proposed Rulemaking for Alternative Capital (ANPR). The ANPR is a great start for the NCUA to begin to revisit regulation on alternative capital for credit unions that must meet regulatory capital requirements. Overall, each step in changing the rulemaking for alternative capital should be focused on the needs of the National Credit Union Share Insurance Fund (NCUSIF) and the safety and soundness of credit unions.

DCU supports and commends the NCUA for its review of alternative capital. Access to alternative capital would allow credit unions to respond more effectively to opportunities and shocks while avoiding unnecessary tradeoffs to its membership. During the economic downturn approximately 10 years ago, DCU's ability to ensure regulatory capital requirements were met was limited exclusively to raising capital through retained earnings. This limitation required DCU to make decisions that impacted some of its membership, such as decreasing share certificate rates to members. From this experience, DCU believes alternative capital issuances would provide the credit union with additional options to guard against risk, achieve growth, and most importantly, ensure our members have the stability of DCU's affordable financial services.

We believe supplemental capital is a valuable tool for DCU to utilize to count towards the risk-based net worth requirement (RBNW). Supplemental capital for RBNW provides some short-term value and could also be utilized to demonstrate the long-term value to be counted towards the net worth ratio.

As mentioned in the ANPR, the Credit Union Membership Access Act (CUMAA) was passed by Congress addressing credit union capital requirements and therefore, only Congress can amend the definition of net worth in the Federal Credit Union Act. We hope the NCUA works with Congress to address the importance of this change to allow non-low-income credit unions to issue secondary capital and for secondary capital to be counted towards the net worth ratio to help credit unions and the NCUSIF.

Subordinated Debt

DCU believes that subordinated debt does not constitute ownership and therefore such debt does not change the characteristics of a credit union's governance, Board of Directors, voting rights, and/or the mutual control over the credit union. Subordinated debt is compatible with the mutual and cooperative structure of credit unions.

Additionally, DCU believes subordinated debt can satisfy all of the key requirements that the NCUA has identified in the ANPR with respect to the requirement that supplemental capital must be uninsured, must be subordinate to all other claims against the credit union, including the claims of creditors, members, and the NCUSIF, must be available to cover operating losses in excess of the credit union's retained earnings, must adhere to maturity limits as determined by the NCUA, and must remain limited to those credit unions designated as sufficiently capitalized. These requirements are the same as those that currently apply to secondary capital for low-income credit unions, and as such, should raise no significant concern about the cooperative structure of credit unions.

Reciprocal Holdings

DCU understands this ANPR may impact the mutuality of credit unions, and the members' rights to govern the affairs of the credit union. We suggest the NCUA identify and recognize individual credit unions investing in other credit unions in a manner that would have an impact to the NCUSIF. We believe the NCUA should require credit unions to deduct the amount of alternative capital cross holdings it has in other credit unions.

Investor Considerations

DCU believes the sale of alternative capital should be limited to accredited, institutional investors. The cost and reporting ramifications to selling alternative capital to any other investors would be a significant burden on credit unions. DCU also believes that credit unions should be granted the flexibility to seek alternative capital from accredited, institutional investors outside of their membership. This would provide the marketability credit unions would need to execute the sale of alternative capital while providing additional protection to the NCUSIF.

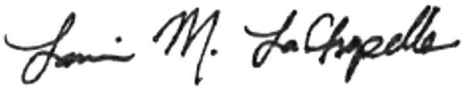
The NCUA should also propose to allow credit unions to pool together their alternative capital needs to minimize costs and to provide flexibility to the investors' market demands.

Tax Exemption

The Senate Report for CUMAA states that credit unions are exempt from taxes because "they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors, and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means." To the extent that supplemental capital permitted by the NCUA to be issued by credit unions does not affect member control, one member – one vote principle, not-for-profit status, and the general mission of credit unions to serve consumers, the tax exemption should not be affected.

In closing, thank you once again for the opportunity to provide information and comments regarding the ANPR. I look forward to additional communication related to revising regulation on alternative capital based on the needs of the NCUSIF and the safety and soundness of credit unions.

Sincerely,



Laurie M. LaChapelle
Vice President of Finance