

April 28, 2017

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

Re: Advance Notice of Proposed rulemaking for Supplemental Capital

Dear Mr. Poliquin:

Thank you for the opportunity to comment on the advanced notice of proposed rule making regarding alternative capital. The Utah Credit Union Association represents 62 credit unions that are based in or operate in Utah. They serve more than 2.4 million credit union members in the state.

The Association appreciates NCUA's demonstration of forward thought regarding alternative capital, and the willingness to help credit unions adapt to the times.

The ability to raise alternative capital for the risk-based net worth ratio will no doubt prove a valuable boon for complex credit unions that choose to take advantage of it.

The ANPR asks about alternative capital in relation to the credit union tax exemption. The ability to issue alternative capital has no bearing on credit union tax exemption, as the exemption was granted to credit unions due to their not-for-profit, cooperative structure. No doubt credit union foes will claim that if credit unions can raise capital they should pay taxes, just as they claimed the same thing when credit unions began issuing share draft accounts, credit cards, member business loans, and other new products and services. But, the fact remains—credit unions are exempt from taxes because of their not-for-profit, cooperative structure.

To maintain that structure, any alternative capital options established by a rule should provide no ownership or governance methods to those purchasing the instruments.

Likewise, the rule should establish appropriate limits (volume limits based on a proportion of assets or a proportion of total capital) on how much and to whom it can be issued with appropriate suitability standards followed. We don't offer a specific methodology for recommending a scientifically derived number, but it should be low enough that management will not feel beholden to the wants and needs of those who hold the secondary capital instruments.

In the event that credit unions feel they need to raise capital, it's doubtful they will find it particularly useful to raise the capital piecemeal, \$25 at a time. Rather, they

would likely want to obtain a large amount in a single effort, very quickly. Raising capital in this manner would seem to point toward institutional or sophisticated investors.

In addition, if members of the credit union were able to purchase secondary capital, it's possible that a few of them, purchasing the capital and becoming board members could have undue influence on the credit union.

These two reasons point to the notion that the current method LICUs have to raise capital is a sound methodology that could be wisely extended to other credit unions.

The ANPR asks many questions regarding the potential structure, disclosures, securities requirements, and other aspects of alternative capital. We feel that rather creating a tiny box in which alternative capital must fit, it would behoove the NCUA to create an environment for limited experimentation by credit unions in the creation of supplemental capital instruments, limited in an amount so as to not expose the share insurance fund to undue risk, but flexible so as to allow the development of the most appropriate instruments that will be useful and cost effective for credit unions.

We recommend that at this stage the rule should not limit permissible supplemental capital instruments to one or two restrictively defined instruments. Rather, the rule should contain a number of requirements that any capital instrument would have to comply with, without specifying precisely how. Any issuance should be subject to regulatory approval prior to issuance, similar to the initial approach taken by the NCUA with derivatives.

Clearly, any instrument should be uninsured and subordinate to other claims and available to cover operating losses and only issued pursuant to regulatory approval. Proper consumer protection, securities/anti-fraud provisions, and disclosure requirements should be provided, with proper suitability standards followed.

Thank you for the opportunity to comment on the ANPR.

Sincerely,

Stephen Nelson
VP of Credit Union Support