

August 31, 2018

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

Re: Proposed Rule: Risk-Based Capital—Supplemental Proposal

Dear Mr. Poliquin:

The National Credit Union Administration (NCUA) Board (Board) is seeking comment on a proposed amendments to the NCUA's previously revised regulations regarding prompt corrective action (PCA).

The proposal would delay the effective date of NCUA's October 29, 2015 final rule regarding risk-based capital for one year, moving the effective date from January 1, 2019 to January 1, 2020. The proposal would also amend the definition of a “complex” credit union adopted in the 2015 for risk-based capital purposes by increasing the asset-size threshold from \$100 million to \$500 million.

According to the Board, the proposal would provide covered credit unions and the NCUA with more time to prepare for the rule's implementation. The Board also estimates that the new definition of a complex credit union would exempt an additional 1,026 credit unions from the risk-based capital rule. The Board believes raising the threshold level for a complex credit union from \$100 million to \$500 million would not pose an undue risk to the National Credit Union Share Insurance Fund (NCUSIF).

Position

My comments will address only raising the asset-size threshold for a complex credit union from \$100 million to \$500 million.

I believe that the Board should reconsider its stance of raising the asset-size threshold from \$100 million to \$500 million.

The NCUA believes that a single asset-size threshold is clearer, more logical, and easier to administer.

Unfortunately, this action would exclude credit unions with assets between \$100 million and \$500 million in assets that are engaged in complex and risky activities.

Almost 800 Credit Unions with At Least 3 Complex Activities Exempted from Risk-based Capital Rule

According to Table 1 in the proposed rule, among credit unions:

- with \$500 million or more in total assets, 100 percent engage in at least one complex activity, and 96 percent engage in at least three complex activities;

- with between \$250 million and \$500 million in assets, 99 percent engage in at least one activity and 88 percent engage in 3 or more complex activities; and
- with between \$100 million and \$250 million in assets, 98 percent reported at least one complex activity and 73 percent engage in 3 or more complex activities.

In other words, the proposed increase in the threshold from \$100 million to \$500 million in assets would exclude approximately 1,000 credit unions with at least one complex activity and 800 credit unions with at least 3 complex activities from the agency’s risk-based capital rule.

7 of 10 Costliest NCUSIF Failures Involved Credit Unions with between \$100 Million and \$500 Million in Assets

The following table lists the 10 costliest natural person credit union failures to the NCUSIF at the time of failure. This information was obtained via a Freedom of Information Act request.

Credit Union	Estimated Loss at Time of Failure	Date
Cal State 9 Credit Union	\$206,000,000	6/30/2008
St. Paul Croatian Federal Credit Union	\$170,000,000	4/30/2010
Telesis Community Credit Union	\$77,000,000	6/1/2012
Chetco Federal Credit Union	\$76,500,000	12/31/2012
Huron River Area Credit Union	\$38,700,000	11/17/2007
Taupa Lithuanian Credit Union	\$33,500,000	7/15/2013
Eastern Financial Florida Credit Union	\$40,000,000	6/30/2009
Ensign Federal Credit Union	\$30,000,000	11/13/2009
Beehive Credit Union	\$27,600,000	12/14/2010
High Desert Federal Credit Union	\$24,300,000	6/18/2009

If the proposed risk-based capital rule was in effect prior to these 10 credit union failures, the \$500 million asset-size threshold for complexity would only have applied to two credit unions – Telesis Community Credit Union and Eastern Financial Florida Credit Union. Another seven credit unions would have been excluded because of the increase in the asset-size threshold from \$100 million to \$500 million. Only Taupa Lithuanian Credit Union would not have been considered complex because the credit union did not exceed the current asset-size threshold of \$100 million.

Raising the Asset Threshold Would Exclude 122 Credit Unions with CAMEL Codes of 3, 4, and 5 from Risk-based Capital Rule

In addition, the increase in the asset threshold to \$500 million in assets would exclude 17 credit unions with CAMEL codes of 4 or 5 and 105 credit unions with a CAMEL code of 3 from the risk-based capital rule, as of March 2018. These 122 credit unions have approximately \$21.4 billion in insured shares. A credit union with a CAMEL code of 3 or more should be subject to a risk-based capital requirement. This would limit the likely loss to the NCUSIF arising from the potential failure of these credit unions and future premium assessments to the NCUSIF.

All Credit Unions Could See Future Premium Assessments

While credit unions with less than \$500 million in assets may not pose a systemic risk to the NCUSIF, losses to the NCUSIF from the failure of credit unions excluded from the cap could result in premium assessments for all credit unions.

This potential increase premiums could arise from those credit unions exempted by the new asset size threshold by not holding more capital that might be mandated by NCUA's risk-based capital rule.

NCUA estimated that 284 credit unions with between \$100 million and \$500 million in assets would under the current rule need to raise \$165 million in capital over what is required by the net worth ratio due to the credit unions' risk profile.

This additional capital would serve as a buffer to absorb losses and reduce future NCUSIF premium assessments to all credit unions that could arise from the failure of some of these credit unions.

Better Alternatives

A better approach for identifying complexity would involve looking at the business model of the credit union based upon its assets and liabilities. At a minimum, NCUA should require credit unions that have more than a *de minimis* level of commercial loans be subject to the agency's risk-based capital requirements.

Alternatively, NCUA could authorize credit unions with at least \$100 million in assets to substitute a higher leverage ratio for the risk-based capital requirement. This would require combining Section 1790d(c)2 of the Federal Credit Union Act with Section 201 of S. 2155 (Economic Growth, Regulatory Relief, and Consumer Protection Act), which mandates that the Federal banking agencies establish a community bank leverage ratio of tangible equity to average consolidated assets of not less than eight percent and not more than ten percent for banks with less than \$10 billion in total consolidated assets. NCUA is encouraged to work closely with the Federal banking agencies as a community bank leverage ratio is developed and to use its Section 1790d(c)2 authority.

Sincerely,

Keith Leggett