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AMERICA'S CREDIT UNIONS™

September 7, 2018

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

RE: Request for Comments on Proposed Rule RIN 3133-AE90; Risk-Based Capital – Supplemental Rule

Dear Mr. Poliquin,

The Georgia Credit Union League (GCUL) appreciates the opportunity to provide comments to the National Credit Union Administration (NCUA) on their proposal to: (1) delay the effective date of the NCUA's October 29, 2015 final rule regarding risk-based capital (RBC 2015 Final Rule) for one year, moving the effective date from January 1, 2019 to January 1, 2020, and (2) amending the definition of a "complex" credit union for risk-based capital (RBC) purposes by increasing the threshold level for coverage from $100 million to $500 million.

As a matter of background, GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL represents the interests of the approximately 100 Georgia credit unions that have more than 2.12 million members. We appreciate NCUA for reconsidering the RBC rule and revisiting key provision, but we would like to see the NCUA Board to withdraw the RBC rule.

While the RBC 2015 Final Rule is vastly improved over the original proposed rule, which we questioned whether NCUA needed to propose such a rule in our letter dated May 27, 2014. We continue to believe that an RBC rule is unnecessary given the solid performance of natural person credit unions and the National Credit Union Share Insurance Fund (NCUSIF) during the recent financial crisis. We further believe that NCUA has sufficiently addressed this issue through Part 704. For these reasons we continue to oppose the rule and recommend it be withdrawn.

Absent a full withdrawal of the RBC 2015 Final Rule, we generally support the current supplemental proposal, and we offer the following comments and recommendations that would better tailor the rule and provide further regulatory relief to credit unions.

Definition of Complex

Under the RBC 2015 Final Rule, the NCUA determined that credit unions exceeding the $100 million asset-size threshold had portfolios of assets and liabilities that were complex based on the products and services in which such credit unions engaged. The NCUA has further analyzed the impact of the NCUA's RBC requirements and the portfolios of assets and liabilities of credit unions to identify potential ways to reduce regulatory burden on credit unions.

As a result, the Board is now proposing to revise the original complexity index (revised complexity index or RCI) and to apply a new complexity ratio (CR) for analyzing the portfolios of assets and liabilities of credit unions to determine which are "complex."

Complexity Index

The $100 million asset threshold adopted in the RBC 2015 Final Rule for determining whether a credit union is complex was based on a complexity index. The original complexity index counted the number of complex products and services provided by credit unions based on several indicators. However, the original complexity index did not consider the volume of the complex activity engaged in by such credit unions.

The Board has proposed a revised complexity index that makes six changes to the original complexity index. We agree with each of the six proposed changes to the RCI. We encourage NCUA to use the delayed effective date to revisit the individual risk-weightings to ensure proper balance between an activity's true risk and its risk weight.

Asset Threshold Level

The proposal would amend the definition of a "complex" credit union for risk-based capital purposes by increasing the threshold level for coverage from $100 million to $500 million in total assets. Georgia credit unions fully support increasing the threshold level. However, we suggest that this threshold level be increased to $10 billion, which has been used as a differentiating threshold in other financial institution regulatory settings. For example, it would align with both the NCUA Office of National Examinations and Supervision (ONES) and the Consumer Financial Protection Bureau (CFPB) supervisory authority. This higher threshold would provide several additional credit unions with regulatory relief, while still protecting the NCUSIF from larger, more impactful losses.

Delay Effective Date

The NCUA Board proposes to delay the effective date of the RBC 2015 Final Rule for one year, in part because the NCUA needs additional time to prepare for the rule's implementation. The proposal NCUA says that "based on feedback from the credit union community and agency staff" more time is needed to make necessary adjustments to systems, processes, and procedures.

We support delaying the effective date of the RBC 2015 Final Rule; however, we recommend a two-year delay. Georgia credit unions believe a two-year delay will provide credit unions and the agency sufficient time to implement necessary systems, processes, and procedures. This extra time should permit complex credit unions additional time to raise capital or adjust their balance sheets to achieve compliance and protect their members. An effective date of January 1, 2021 could benefit the NCUA as well, as it may allow for a better positioning of the NCUSIF, and the system, in preparation for the next set of challenges it may face. In addition, it will also allow credit unions time to assess how a final rule on supplemental capital may be utilized for their RBC purposes; and will provide a consistent target date for covered credit unions' work efforts.

Furthermore, the additional two-year delay would align with recent legislative actions that also reflect the opinion that a two-year implementation delay is necessary. We recommend aligning the effective date with the timeframe set forth in Section 701 of HR 5841, the *Foreign Investment Risk Review Modernization Act of 2018.* HR 5841 delays the effective date until January 1, 2021. Having a consistent effective date will allow covered credit unions to employ their resources appropriately and ensure their efforts are not wasted.

Supplemental Capital for RBC Purposes

Under the RBC 2015 Final Rule, the Board declined to permit credit unions (other than low-income credit unions) to include other supplemental forms of capital in the RBC ratio numerator. However, the Board issued an advanced notice of proposed rulemaking in February 2017 and specifically requested comments on how supplemental capital can work for risk-based capital purposes. Georgia credit unions support permitting all federally insured credit unions to issue supplemental capital that would count towards their risk-based net worth requirement. We strongly urge the NCUA finalize a supplemental capital rule before the effective date of the RBC rule and provide credit unions with the necessary tools to manage RBC requirements.

Summary

Thus, we support the regulatory relief direction NCUA is indicating by delaying the RBC rule and increasing its complex credit union definition threshold. However, since we question the necessity and advisability of the rule itself, OCUL encourages NCUA to press further in providing relief for credit unions from a credit union RBC scheme that is of questionable utility and value for financial cooperatives.

We appreciate the opportunity to present comments on the proposed RBC supplemental rule on behalf of Georgia's credit unions. We urge NCUA to continue to study the effectiveness and functionality of the rule. Thank you for your consideration. If you have questions about our comments, please feel free to contact me at (770) 476-9625.

Respectfully submitted,

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