September 7, 2018

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

Re: NCUA Risk-Based Capital – Supplemental Rule: RIN 3133-AE90

Dear Mr. Poliquin,

The Michigan Credit Union League (MCUL), the state-wide trade association representing 100% of the 224 credit unions located in the state of Michigan and their 5.3 million members, appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) Supplemental Rule addressing Risk-Based Capital.

The MCUL applauds the NCUA's willingness to address industry concerns with its 2015 Risk-Based Capital (RBC) rule and generally supports the direction the Agency is taking with the supplemental rule. However, we believe the RBC rules should be revised even further. We respectfully ask the NCUA to consider the following comments.

Definition of Complex Credit Union – Asset Threshold

MCUL appreciates the NCUA's consideration in increasing the asset threshold of a "complex" credit union as a credit union with $500 million or greater in assets. However, we maintain that the definition of "complex" credit union should consider a credit union's portfolio of assets and liabilities rather than an arbitrary asset threshold.

Credit unions are distinctly different from one another in the products and services they offer as well as their level of complexity. Defining credit unions by an arbitrary asset size runs the risk of bifurcating the industry. The credit union industry has already been divided by the Dodd-Frank Act at the $10 billion asset threshold used to determine whether a credit union is subject to the Bureau of Consumer Financial Protection's (BCFP) examination process as well as the NCUA, without regulatory relief. The setting of an asset threshold for a "complex" credit union will result in a further division of the industry and we maintain is therefore contrary to the best interest of credit unions.

MCUL maintains that if a threshold is to be set, that it would be more appropriate at ten billion in assets. This threshold would align with the eligibility for supervision under the NCUA's Office of National Examinations and Supervision, as well as the threshold for supervision under the BCFP.

Delay of Effective Date

The NCUA is proposing to delay the RBC rule's effective date by one year, from January 1, 2019 to January 1, 2020. MCUL respectfully asks the NCUA to consider any delay of the compliance deadline to be no less than two years with the earliest date for implementation January 1, 2021.

An extension of the effective date would reflect legislative efforts at the Congressional level. Provisions of H.R. 5288, the Common-Sense Credit Union Capital Relief Act of 2018, would delay the effective date of the RBC rule until January 1, 2021. In addition to this effort, earlier this year the House Appropriations Committee voted to approve the 2019 Financial Services and General Government Appropriations bill. Title IX, Section 938 of the bill includes the provisions of H.R. 5288, delaying the effective date of any RBC rule until 2021.

Delaying the effective date to January 1, 2021, or later, would:

- Provide affected credit unions more time to adopt a Capital Adequacy Management Plan, in accordance with the 2015 final rule, for the NCUA's review and approval;
- Allow covered credit unions adequate time to implement the strategic and operational changes necessary to prepare for a new RBC system; and
- Provide the NCUA adequate time to develop its own examination resources and training for its examiners, as well as necessary guidance for credit unions well in advance of the effective date.

Additionally, section 1790(I) of the Federal Credit Union Act directs NCUA to consult and cooperate with state regulators to implement PCA provisions. NCUA should utilize a delayed effective date as an opportunity to work with state regulators, review comments and develop further necessary refinements to the rule.

Alternative Capital

In early 2017, the NCUA issued an Advanced Notice of Proposed Rulemaking seeking comment on Alternative Capital. MCUL maintains, as reflected in our May 9, 2017 letter to the NCUA, access to alternative capital, outside of the credit union low-income designation and retained earnings, is especially important. The RBC final rule may require some credit unions to increase capital to the 7 percent net worth leverage ratio, which under current rules, may only be accomplished through retained earnings.

Alternative Capital could provide a viable means of meeting the regulatory requirement under the NCUA's Risk-Based Capital rule while minimizing any potential risk to the share insurance fund, a key concern of the Agency. Furthermore, a financially strong, well-capitalized credit union might in fact be discouraged from growth because of concern of diluting net worth ratios that may trigger supervisory concerns. MCUL encourages the Agency to consider issuing a proposed rule for alternative capital as reflective of the NCUA's rulemaking agenda.

Conclusion

MCUL is encouraged by the NCUA's willingness to reconsider components of the Risk-Based Capital rule. Increasing the asset threshold and extending the deadline for compliance by at least two more years would afford impacted credit unions and examiners sufficient time to prepare. Thank you for your consideration.

Sincerely,

Dave Adams, CEO
Michigan Credit Union League & Affiliates