Credit Union National Association
CUNA

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March 23, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Risk-Based Net Worth—COVID-19 Regulatory Relief ("Complex" Threshold); RIN 3133–AF21

Dear Ms. Conyers-Ausbrooks:

On behalf of America's credit unions, I am writing to the National Credit Union Administration (NCUA) in support of the proposed rule *Risk-Based Net Worth—COVID-19 Regulatory Relief*. The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members.

The NCUA is issuing this proposal to raise the asset threshold for defining a credit union as "complex" for purposes of being subject to any risk-based net worth (RBNW) requirement in the NCUA's regulations. The proposed rule would amend the NCUA's regulations to provide that any RBNW requirement will be applicable only to a federally insured credit union (credit union) with quarter-end assets that exceed $500 million and a RBNW requirement that exceeds 6%.

We support this proposed rule, as we agree with the NCUA that implementing this regulatory change in advance of the risk-based capital (RBC) rule's January 1, 2022, effective date will provide capital relief to a significant number of credit unions without substantially decreasing the safety and soundness of credit unions or the National Credit Union Share Insurance Fund (NCUSIF).

## Background

Currently, the NCUA defines a credit union as complex and thus subject to the RBNW requirement only if the credit union has quarter-end assets that exceed $50 million and a RBNW requirement that exceeds 6%. While the RBNW requirement currently remains in place, the NCUA has updated its prompt corrective action (PCA) regulations, including amending the agency's RBNW requirement by replacing it with a new RBC ratio. The prospective RBC requirement applies to complex credit unions (those with quarter-end total assets exceeding $500 million), whereas the current RBNW requirement applies to credit unions with quarter-end assets that exceed $50 million and a RBNW requirement, as calculated under current part 702, that exceeds 6%.

The NCUA's current PCA regulation remains in effect until January 1, 2022, at which time the new RBC requirements take effect. The NCUA has enforced, and will continue to enforce, the capital standards currently in place and address any supervisory concerns through existing regulatory and supervisory mechanisms. Until January 1, 2022, a credit union that would be exempted from any future RBC requirement because it does not have over $500 million in total assets remains subject to the current RBNW requirement if it has over $50 million in total assets and a RBNW requirement that exceeds 6%.

## Proposed Rule

According to the NCUA, in issuing this proposal, the agency intends to strike the appropriate balance between providing for the safety and soundness of the credit union industry, while not restricting credit union activities by requiring a credit union to hold excessive levels of capital. Requiring a credit union to hold excess capital above what is necessary to account for risk limits its ability to increase lending or provide necessary services to members.

Based on September 30, 2020 data, credit unions with assets between $50 million and $500 million account for 15.9% of industry assets and 33.8% of credit unions. The average asset size of a credit union in this group is $164 million. Conversely, credit unions with assets greater than $500 million account for 81.6% of industry assets and only 12.4% of total credit unions.[1] Therefore, we agree with the agency that raising the RBNW requirement threshold to $500 million would still cover the majority of assets in the credit union system and not pose undue risk to the NCUSIF.

*Impact of the Proposed Rule*

According to the NCUA's analysis of the proposal, increasing the complex threshold to $500 million would provide potential relief to 1,737 credit unions. While all complex credit unions meet their RBNW requirement as of September 30, 2020, because their net worth ratio exceeds their RBNW requirement, immediate capital relief can be provided to some of these credit unions. There are 94 complex credit unions with assets totaling $66 billion that are required to hold capital above 7% to be well capitalized based on their RBNW requirement. Of the 94 credit unions, 67 have assets less than $500 million and would no longer be required to hold more capital to remain well capitalized. Further, increasing the complex threshold now rather than when the RBC rule takes effect in 2022 will not pose undue risk to the NCUSIF since these 67 credit unions represent less than 1% of industry assets.[2]

In supporting the proposed rule, we agree with the agency's analysis that the proposed increase to the complex threshold would provide immediate relief for the 67 credit unions

[1] 86 Fed. Reg. 10,872, 10,874 (Feb. 23, 2021).
[2] 86 Fed. Reg. 10,874 – 10,875.

that must currently manage their capital levels to a RBNW requirement above 7%. The proposed change would also provide relief to those credit unions with assets between $50 million and $500 million, which would be able to expand their portfolios and simply manage their capital levels to meet the 7% leverage requirement to be well capitalized.

As we continue to find ourselves in unprecedented times given the ongoing pandemic, it is critical that the NCUA utilize its authority to maximize regulatory flexibility for credit unions in ways that do not jeopardize safety and soundness or the NCUSIF generally. Further, it is important that credit unions, as America's first financial responders, employ their capital in ways to satisfy members' needs as we rebuild the economy following the COVID-19 pandemic. We applaud the NCUA for its creative and proactive approach over the past year in pursuing regulatory relief aimed at helping credit unions help their members. We believe increasing the complex threshold under the proposal is another step in the right direction.

**Conclusion**

On behalf of America's credit unions and their 120 million members, thank you for considering our comments in support of the proposed rulemaking regarding credit unions' PCA requirements. If you have questions about our comments, please do not hesitate to contact me at (202) 508-6743 or LMartone@cuna.coop.

Sincerely,

Luke Martone

Luke Martone
Senior Director of Advocacy & Counsel