3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org

National Association of Federally-Insured Credit Unions

May 10, 2021

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: Simplification of Risk Based Capital Requirements (RIN: 3133-AF35)

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the National Credit Union Administration's (NCUA) advance notice of proposed rulemaking (ANPR) concerning simplification of risk-based capital requirements. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 124 million consumers with personal and small business financial service products. NAFCU and its member credit unions support the NCUA's attention to the critical issue of capital relief.

As the country begins to surmount the worst effects of the COVID-19 pandemic, credit unions continue to fuel the engine of economic recovery with new loans, forbearances, and other accommodations to address the hardships faced by members who have lost jobs or experienced strains on household finances for the past year. The intensity of this member-focused activity has coincided with increased pressure on net worth and risk based net worth ratios resulting from an elevated savings rate and influx of government stimulus. In recognition of the underlying health of the credit union industry and the unusual capital pressure caused by pandemic-related asset growth, NAFCU fully supports efforts to reconsider and simplify the NCUA's 2015 risk-based capital (RBC) rule.

General Comments

NAFCU regards the NCUA's 2015 RBC rule (final RBC rule) as lacking important flexibility found in comparable bank capital regulations. The Community Bank Leverage Ratio (CBLR) adopted by the other federal banking agencies, for example, grants eligible community banks an off-ramp from Basel III compliance in exchange for a slightly higher leverage ratio.[1] The CBLR is the inspiration for one of the NCUA's own simplification frameworks: the Complex Credit Union Leverage Ratio (CCULR). In general, NAFCU supports the development of an alternative to the agency's final RBC rule, such as a an off-ramp which aims to reduce the complexity of risk-

[1] Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations, 84 Fed. Reg. 61776 (November 13, 2019).

based capital compliance (i.e., the CCULR), or a risk based leverage ratio (RBLR) that is tailored to produce a less burdensome and less complex capital standard.

Offering a simplified, risk based capital framework would benefit the credit union industry in a number of ways, including:

1. Freeing credit union administrative resources to focus on rehabilitating members who have experienced pandemic related financial stress;
2. Easing operational burdens for credit unions as they plan for CECL compliance;
3. Streamlining the NCUA's own procedures for assessing risk based capital adequacy; and
4. Simplifying capital planning and stress testing for credit unions.

While the ANPR does not provide a complete description of how each of the NCUA's proposed capital simplification frameworks would work, making it difficult to judge the exact degree of capital stringency associated with either, NAFCU's members have expressed a preference for the option that affords the greatest simplicity. However, an equally important consideration for NAFCU members is what framework will best mitigate a "capital cliff" scenario, where a small increase in a certain type of asset results in a large increase in the risk based capital requirement.

NAFCU's members would also value a rulemaking trajectory that aims to provide risk-based capital relief before the final RBC rule takes effect next year and certainly before the Current Expected Credit Loss (CECL) standard becomes effective. While the ANPR states that the agency is committed to developing a final rule before the final RBC rule takes effect, NAFCU believes that this may be an ambitious timeline and one that could prompt the agency to curtail more fulsome exploration of the merits of either the RBLR or CCULR. If the NCUA encounters barriers that would prevent it from developing a final rule before 2022, the agency may want to consider an approach where a preliminary off-ramp for the final RBC rule is considered and finalized before January 1, 2022, or where the final RBC rule is delayed until a rulemaking can be completed.

A fast-tracked, RBC off-ramp much like the CCULR could be proposed as an interim measure of relief with a narrower range of parameters for consideration, such as the calculation of just the leverage ratio and basic eligibility requirements. Separately, the NCUA could continue pursuing a more complete rulemaking that compares the merits of the CCULR and RBLR. The RBLR and CCULR demand careful consideration, but lack of specific detail about either approach in the ANPR suggests that an interim unbundling of broader RBC simplification from the much narrower idea of an RBC off-ramp may be desirable. NAFCU encourages the NCUA to be transparent about its process and timeline for developing a proposal in response to the ANPR and thereafter publishing a final rule. Periodic updates throughout the year would give credit unions confidence about the timing of expected relief.

Risk Based Leverage Ratio

As a replacement for the final RBC rule, the RBLR affords the NCUA an opportunity to adopt a simple net worth calculation accompanied by mandatory capital buffers for the purposes of ensuring risk-based capital adequacy. However, it will likely require greater administrative

resources to develop as it replaces the final RBC rule with what is essentially a new standard. The ANPR describes the RBLR as requiring "an extra cushion of capital buffers over and above the seven percent net worth ratio standard for classification as well capitalized when certain characteristics inherent in a FICU's balance sheet exceed specified thresholds."

Risk Factors

The simplicity of the RBLR will depend on the number and complexity of risk factors used to calibrate additional capital buffers. The ANPR notes that the NCUA is considering basing these factors on the final RBC rule's risk-weighted asset categories and provides examples, all of which are assets that receive a risk weighting in excess of 100 percent.[2] The NCUA has also proposed considering concentration risk factors for the purpose of determining risk thresholds.

NAFCU regards the preliminary list of asset categories as an appropriate starting point for developing a more complete framework for the RBLR risk factors but recommends limiting the range of "other investment activities" to equity investments that would, under the final RBC rule, be subject to a risk weight in excess of 100 percent. In addition, the NCUA might consider omitting from a RBLR risk factor calculation certain equity investments in CUSOs because loans and investments to CUSO are already limited to 1 percent of a FCU's paid-in and unimpaired capital and surplus.

Codified restrictions on a FCU's ability to invest in CUSOs make it difficult for CUSO investments alone to trigger the higher, 150 percent risk-weight category that the final RBC rule adopts when a credit union's total equity exposures are deemed significant.[3] Furthermore, the decision to adopt in the final RBC rule a higher, risk-weight category for CUSO investments that is analogous to what the Federal Deposit Insurance Corporation (FDIC) uses for equity *investments exceeding 10 percent of a bank's capital* is itself questionable in light of regulatory constraints and the industry's low aggregate exposure to CUSO investments. In addition to easing the capital penalty associated with CUSO investments, the NCUA should also consider lifting CUSO investment restrictions to accommodate greater collaboration between credit unions and fintech companies.

For the sake of simplicity, it may be desirable for the NCUA to measure "other investment activity" by focusing on non-CUSO, non-corporate contributed capital equity exposures when calibrating RBLR risk thresholds since assigning risk ratings to these types of investments will significantly increase the overall complexity of the RBLR. If a credit union's total equity exposures would be deemed significant under the final RBC rule, the NCUA should, at the very least, clarify in a future RBLR proposal whether this itself might trigger a new risk threshold and corresponding capital buffer under the RBLR.

If the NCUA choses to adopt a streamlined set of risk factors which correspond to a subset of higher-risk assets under the final RBC rule, the agency should also seek to limit the applicability of strict concentration risk thresholds for residential real estate and commercial loans. Historically,

---

[2] Non-current loans, commercial loans exceeding 50 percent of assets, junior lien real estate loans exceeding 20 percent of assets, mortgage servicing rights, and other investment activities.
[3] See Final RBC Rule, *§ 702.104(c)(3)(i)*.

NAFCU has opposed the use of higher risk weights for higher concentrations of these assets since it entails holding incrementally more capital than banks for similar levels in mortgages and commercial loans under the final RBC rule.[4] NAFCU has previously proposed eliminating this tiered risk weighting system and encourages the NCUA to streamline in the RBLR any assessment of concentration risk. For example, if a credit union's concentrations in various assets place it within the baseline RBLR risk threshold (i.e., subject to capital buffer A), exceeding the concentration limit for a particular asset category should not automatically trigger a new risk threshold (i.e., capital buffer B). Instead, the NCUA might consider, in conjunction with the RBLR, a supervisory approach where the applicability of a new capital buffer is evaluated in terms of overall concentration risk across multiple categories of assets.

A streamlined approach for assessing concentration risk would give credit unions greater assurance that fluctuations in one type of asset, such as mortgage servicing assets (MSAs), will not automatically correspond with more burdensome capital requirements on short notice. Such flexibility could also be structured to alleviate the punitive treatment of mortgage servicing assets (MSAs) under the final RBC rule. If the NCUA determines, in a future proposal, that concentration in MSAs must be weighed as a distinct risk factor for the RBLR, the agency should reevaluate its 2015 assessment of MSA risk (i.e., reduce the 250 percent weighting) in recognition of credit unions' demonstrable record of compliance and prudent management of these assets. In recalibrating MSA risk weighting (or any corresponding measure for establishing RBLR risk thresholds), the NCUA should also consider whether the loan is a recourse or nonrecourse loan and treat loans sold without recourse but serviced by the credit unions as lower risk.

To the extent credit unions choose to limit their retention of MSAs in response to higher RBC requirements, the result for American consumers could be even greater concentration of MSAs in the hands of a few, nonbank mortgage servicers that are not subject to equivalent capital and liquidity rules.[5] Such an outcome could have broader implications for financial stability in the event nonbank servicers experience economic stress or fail.[6] Reducing the high capital penalty for holding MSAs could also incentivize credit unions to expand lending in areas where MSAs have historically held less value.[7]

As the NCUA has noted in one recent proposal, MSAs impact compliance and reputation risk due to the high touch nature of interactions with consumers, but "FCUs have demonstrated experience

---

[4] *See* NCUA, Delay of Effective Date of the Risk-Based Capital Rules**,** 84 Fed. Reg. 68781, 68785 (December 17, 2019).

[5] *See*, Report to the Congress on the Effect of Capital Rules on Mortgage Servicing Assets (2016), available at https://www.federalreserve.gov/publications/other-reports/files/effect-capital-rules-mortgage-servicing-assets-201606.pdf.

[6] The Financial Stability Oversight Council (FSOC) has identified non-bank mortgage companies as a potential emerging threat to the U.S. economy, specifically with respect to the origination and servicing of mortgage loans held by Fannie Mae, Freddie Mac, and Ginnie Mae. See Financial Stability Oversight Council, 2019 Annual Report, https://home.treasury.gov/system/files/261/FSOC2019AnnualReport.pdf

[7] *See* Laurie Goodman, "Servicing Costs and the Rise of the Squeaky Clean Loan," Mortgage Banker, February 2016, 2–3, www .urban.org/sites/default/files/alfresco/publication-pdfs/2000607- Servicing-Costs-and-the-Rise-of-the-Squeaky-Clean-Loan.pdf. "MSRs tend to have the lowest value when the borrower is higher risk and the property is located in a long-timeline judicial state."

originating and servicing residential mortgage loans."[8] While NAFCU acknowledges that the FCU Act requires NCUA to promulgate a capital regime that is "comparable" to the other banking agencies, which have adopted a 250 percent risk-weight for mortgage servicing assets, we firmly believe the structure and composition of credit unions warrant a lower risk-weight for this asset class in our capital regime.

Capital Sensitivity

The ANPR describes the operation of the RBLR as requiring any credit union that crosses a risk threshold to apply an additional capital buffer layered atop the 7-percent net worth ratio requirement to be deemed well capitalized. The ANPR indicates that the NCUA is considering a three-tiered system of minimum leverage ratios for all complex FICUs. The ANPR acknowledges that an RBLR approach would be simpler but may also result in a higher capital requirement for certain FICUs that have riskier assets when compared to the risk-based capital framework. NAFCU generally agrees with this assessment (discussed further below); however, the ultimate merits of the RBLR cannot be understood without having additional information concerning the calibration of different risk tiers.

The primary appeal of the RBLR is the administrative relief it affords, both in terms of calculating a FICU's current capital buffer for those credit unions where RBC would otherwise be the binding capital standard and for planning purposes as credit unions must consider how the various capital standards interact as their balance sheet evolves. On the other hand, even a minor fluctuation in asset composition could trigger new risk thresholds, resulting in a sudden change in capital requirements. While credit unions will likely have processes to anticipate such changes in advance, some may choose to manage to an even higher capital standard to provide a buffer between the RBLR buffers. The NCUA should consider this additional capital cost as it considers ways to streamline risk thresholds; adopting many risk factor variables could incentivize credit unions to adopt an unnecessarily conservative posture, thus forgoing one of the principal benefits of RBC simplification which is freeing credit union resources for more productive use.

Complex Credit Union Leverage Ratio

As a close analogue of the CBLR, the CCULR has the benefit of a proven design and one that could be repurposed to facilitate timely development of a final rule for credit unions. Whereas the RBLR necessitates a more complete reconsideration of the final RBC rule, the CCULR operates more narrowly as an off-ramp. NAFCU expects this arrangement will present fewer technical considerations for agency staff concerning the calibration of concentration thresholds or risk-weights across financial asset types while still achieving the goal of simplification. The CCULR also presents less risk of putting credit unions against a capital cliff as compared with the RBLR. In basic design, the CCULR would also minimize the likelihood that a credit union would need to manage to a higher capital standard.

---

[8] *See* NCUA, Mortgage Servicing Rights, 85 Fed. Reg. 86867, 86868 (December 31, 2020).

Should the NCUA decide that the CCULR offers the most expedient mechanism for providing RBC simplification before the effective date of the RBC final rule, NAFCU recommends that the agency consider the following eligibility principles:

1. *The NCUA should not model the CCULR leverage ratio to mirror the CBLR.*

In terms of the share of credit unions that would see capital standards ease by adopting the CCULR, the analogous threshold which provides greatest parity with the CBLR would be a leverage ratio less than 9 percent. The FDIC's 2020 study of the CBLR found that under the 9 percent leverage ratio, only 3 percent of banks would see their capital buffers shrink by taking the off-ramp option.[9] The chart below illustrates that for credit unions, a comparable measure of capital relief would be accomplished with a leverage ratio set between 8 and 8.5 percent.

Table 1 – Capital Stringency of CCULR

Stringency of CCULR				
	Percent of FICUs where binding standard is…		**Capital Release**	
CCULR	**Leverage Ratio**	**Risk-Based Capital Ratio**	**Amount ($millions)**	**As % of Capital Held**
8.0%	94.5%	5.5%	+$418.7	+0.9%
8.5%	97.2%	2.8%	+$159.4	+0.3%
9.0%	98.6%	1.4%	+$62.3	+0.1%
9.5%	99.4%	0.6%	+$30.2	+0.1%
10.0%	99.8%	0.2%	+$11.5	+0%

Figures reflect analysis of 2020q3 call report data for complex CUs (those with over $500 million in assets)
Source: NAFCU analysis of NCUA call report data

While the 9 percent threshold provides nominal parity in terms of the percent reduction in the capital buffer, accelerated asset growth in the last year driven by the pandemic should favor a lower leverage ratio to ease capital pressure during a period of economic recovery. Furthermore, the relatively low adoption of the CBLR when the leverage was maintained at 9 percent reflects the limitation of its default threshold. Based on Q1 2020 call reports, only 34 percent of eligible banks took advantage of the CBLR, regarding the standard as more punitive than the alternative and more complex Basel III standards.[10] Even after the CARES-Act reduced the CBLR ratio

[9] FDIC, Corporation Staff Studies - Report No. 2020-03 Analyzing the Community Bank Leverage Ratio (May 2020).
[10] S&P Global Market Intelligence, "Less than 35% of banks under $10B adopt simplified capital ratio" (June 17, 2020).

temporarily to 8 percent, the share of banks adopting the standard in Q2 2020 was far lower than the total eligible population.[11]

The experience of community bank adoption of the CBLR should prompt the NCUA to consider adopting a leverage ratio no greater than 8 percent if the goal is to provide effective capital relief. Furthermore, Congress specified in Section 201 of the *Economic Growth, Regulatory Relief, and Consumer Protection Act* (EGRRCPA) that the CBLR target a ratio of "not less than 8 percent and not more than 10 percent." In other words, if the NCUA were to implement the statutory text of EGRRCPA without taking advantage of any other flexibility that exists under the FCU Act, an 8 percent leverage ratio would be within range of Congress' intent. However, for reasons explained below, the NCUA should not feel bound by the statutory parameters of the CBLR, which was written with the unique business characteristics of banks in mind.

The NCUA should adopt a lower leverage ratio for the CCULR because matching bank regulators' 9 percent threshold would erroneously suggest that bank and credit union capital are equivalent when this is not the case. The numerator of the CBLR is the existing measure of tier 1 capital used by non-advanced approaches banking organizations. Tier 1 capital is the sum of common equity tier 1 capital (e.g., stock issued by a bank) and additional tier 1 capital (e.g., noncumulative perpetual preferred stock). Credit unions cannot issue common stock to address fluctuations in net worth or risk based net worth and must instead rely on retained earnings, which are slow to accumulate and expensive to rebuild.

Taking into consideration the unique capital limitations credit unions face, the NCUA should consider a longer grace period for coming into compliance with the CCULR in the event a credit union temporarily falls below the required leverage ratio. The CBLR adopts a two-quarter grace period during which a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the greater than 9 percent leverage ratio requirement, will still be deemed well capitalized. However, the qualifying community banking organization must maintain a leverage ratio greater than eight percent. NAFCU recommends adopting a four-quarter grace period to reflect the slower process of credit union capital accumulation.

Lastly, the NCUA should permit credit unions to include goodwill in the numerator portion of the CCULR calculation. As expressed in prior comments, NAFCU believes deducting goodwill from the RBC numerator presents two significant issues. First, it penalizes credit unions who have recently gone through a merger. Second, it discourages merger activity, which would prevent healthy industry consolidation and the combining of unhealthy credit unions with stronger ones in the future. In recognition of these concerns, NAFCU asks that the NCUA allow credit unions to include goodwill in the numerator of the leverage ratio calculation for the purpose of determining CCULR eligibility.

[11] S&P Global Market Intelligence, "More than 2,700 community banks say 'no thanks' to reg relief." (September 10, 2020).

2. *The NCUA should not limit CCULR eligibility based on asset size.*

As expressed in NAFCU's prior comments regarding the NCUA's definition of "complex" for the purposes of the final RBC rule, the use of an arbitrary asset threshold for delimiting capital relief unfairly penalizes otherwise healthy, large credit unions.

The FCU Act directs NCUA to base its definition of "complex" credit unions "on the portfolios of assets and liabilities of credit unions." As amended, the final RBC rule defines the term "complex" using a single asset size threshold of $500 million as a proxy for a credit union's complexity. NAFCU continues to maintain that the size of an institution does not determine its complexity. Our view is supported by an October 2017 report from the Office of Financial Research, "*Size Alone is Not Sufficient to Identify Systemically Important Banks*," which found that the asset size of an institution is insufficient to determine its riskiness. The report also concluded that a multi-factor test that examines the activities of the institution is a better indicator of risk. Rather than imposing an arbitrary asset threshold, the definition of "complex" must consider a credit union's portfolio of assets and liabilities. NAFCU believes defining complexity by an asset threshold runs astray of Congress' mandate in the FCU Act, which expressly requires NCUA to consider the complexity of a credit union's book of assets and liabilities.

While the CBLR adopts an asset-based eligibility criteria of $10 billion, this reflects a limitation adopted by Congress specific to community banks. The FCU Act continues to grant the NCUA Board the discretion to tailor its risk-based capital standards (and off-ramps) without the constraints of any asset-based limitation, and NAFCU encourages the NCUA to embrace this flexibility.

3. *The NCUA should tailor other eligibility criteria based on the unique profile of the credit union industry.*

To be eligible to use the CBLR, a community bank must not have total off-balance sheet exposures in excess of 25 percent of its total consolidated assets. This particular requirement is likely to limit credit union eligibility more significantly than it does for community banks. Historically, credit unions tend to have higher off-balance sheet exposures than community banks and would face additional barriers to accessing capital relief if the NCUA were to retain the 25 percent limit as-is. NAFCU recommends adopting a lower limit for off-balance sheet exposures.

CCULR and RBLR Compared

Table 3 below presents a comparison of the CCULR and RBLR relative to the 2015 final RBC rule. NAFCU's analysis of the RBLR considered hypothetical risk thresholds with varying degrees of stringency in their qualifying criteria (easy/mid/severe). In NAFCU's simplified model, the degree of stringency depends most significantly on the concentration in certain, higher risk-weighted assets (see Table 2). The asset categories in Table 2 reflect those the NCUA identified as possible candidates for RBLR risk factors but should not be interpreted as those NAFCU regards as most suitable. In all three scenarios, breaching one threshold brings a hypothetical 100 basis point increase in the leverage ratio requirement (to 8 percent), while the breaching of two or more

brings a 200 basis point increase (to 9 percent). In other words, the tier 1 and tier 2 thresholds represent the capital buffers under the RBLR.

Table 2 – NAFCU's RBLR Risk Weights by Scenario

	Easy	**Mid**	**Severe**
Publicly traded equity investment			
Tier 1	>5% to 10%	>3% to 5%	>2% to 5%
Tier 2	>10%	>5%	>5%
Delinquent loans			
Tier 1	>3% to 6%	>2% to 4%	>1% to 4%
Tier 2	>6%	>4%	>4%
Junior lien real estate loans			
Tier 1	>20% to 30%	>20% to 30%	>20% to 30%
Tier 2	>30%	>30%	>30%
Commercial loans			
Tier 1	>50% to 75%	>50% to 75%	>50% to 75%
Tier 2	>75%	>75%	>75%
Investments in CUSOs			
Tier 1	>3% to 6%	>2% to 4%	>1% to 4%
Tier 2	>6%	>4%	>4%
Mortgage servicing assets			
Tier 1	>2% to 4%	>1% to 2%	>0.5% to 1%
Tier 2	>4%	>2%	>1%

Figures represent total assets.

Table 3 – CCULR vs. RBLR

All Complex CUs						
	# of CUs Covered	**Agg. Cap Buffer ($M)**	**Change in Buffer* ($M)**	**# whose Buffers Shrink***	**# whose Buffers Grow***	**# of CUs subj. to RBC**
RBC (2015)	636	$47,190	---	---	---	636
CCULR (8.5%)	636	$47,350	+$160	0	18	99
CCULR (9%)	636	$47,250	+$60	0	9	169
RBLR (easy)	636	$48,850	+$1,660	8	140	0
RBLR (mid)	636	$48,230	+$1,040	26	132	0
RBLR (severe)	636	$46,930	$-260	78	124	0

* vs. RBC (2015)

In Table 3, the CCULR is presented in two variations, with a leverage ratio of 8.5 percent being most analogous to the CBLR in terms of the potential extent of capital relief afforded to credit unions.

In terms of the capital buffer, the CCULR does not risk reducing a complex credit union's capital buffer. This is due to its structure as an optional off-ramp. If a credit union fails to reach the qualifying leverage ratio, it can simply revert to the regime scheduled to take effect next year (7 percent leverage ratio + 10 percent RBC ratio) in order to be considered well capitalized. However, very few credit unions would see a larger capital buffer under CCULR.

In contrast, the RBLR has a much broader range of outcomes. Even under the easiest set of criteria, a few credit unions would be worse off strictly in the sense of their capital buffers under RBLR than under RBC. On the other hand, many more would benefit under the RBLR than under the CCULR. Where the CCULR is more incremental, the RBLR has discrete thresholds. If a credit union runs afoul of any of them, it is subject to a large increase in capital requirements. In aggregate terms, the overall capital requirement across all complex credit unions also varies much more for the RBLR than for the CCULR. In NAFCU's "severe" scenario, the RBLR would actually reduce the aggregate capital buffer for the industry.

In developing a future proposal, the NCUA should present a detailed accounting of how different RBLR risk thresholds and capital buffers will translate into capital relief, particularly in relation to the CCULR.

Subordinated Debt

Regardless of what capital simplification framework the NCUA pursues, NAFCU recommends the agency adopt a clear position that subordinated debt can be included in the numerator portion of any risk-based capital calculation that is used for determining the applicability of either a RBLR-type capital buffer or CCULR-type off-ramp.

The ability of non-LICU complex credit unions to use subordinated debt as regulatory capital for either the RBLR or the CCULR would not be frustrated by the FCU Act's definition of "net worth." The formulae used to calibrate the RBLR risk thresholds (to the extent they are expressed as ratios of capital to assets) would not need to conform to the definition of "net worth ratio" since they would, in practical terms, function as risk-based capital ratios. In other words, the RBLR is easily distinguishable as a risk-based capital standard and not merely an extension of prompt corrective action standards that must adhere to the statutory meaning of net worth. The CCULR is likewise distinguishable as a risk-based capital standard, and adopting a simplified net worth leverage ratio for determining its applicability should not impair the usefulness of subordinated debt as regulatory capital. Accordingly, NAFCU does not foresee any issue in allowing credit unions to use subordinated debt for the purposes of determining the applicability of the RBLR or the CCULR.

Conclusion

NAFCU would support further consideration of the RBLR or the CCULR in a future proposal. While certain design characteristics present natural tradeoffs between the two options, the merits of both are difficult to judge in the absence of specific information about either the RBLR's risk factors or the CCULR's eligibility criteria and ultimate leverage ratio. In general, NAFCU would be receptive to a proposal where the RBLR risk factors encompass a reduced set of asset categories that would, under the final RBC rule, receive a risk weight in excess of 100 percent. NAFCU would also support consideration of a consolidated measure for assessing concentration risk so that an increase in one particular type of asset does not, by itself, trigger a new risk threshold and corresponding capital buffer.

For the CCULR, there is clear merit in its simplicity and NAFCU urges the NCUA to tailor this analogue of the CBLR to the unique characteristics of credit unions rather than copy the exact criteria adopted by the other banking regulators. NAFCU asks that the NCUA consider a lower leverage ratio than 9 percent, avoid an asset-based limitation on CCULR eligibility, include goodwill in the CCULR numerator, and consider a longer grace period for those credit unions that temporarily dip below the required leverage ratio. Ultimately, if time constraints make it difficult for the agency to fully develop a proposal for the RBLR before the effective date of the final RBC rule, the CCULR may present the most expedient mechanism for capital relief.

NAFCU's members need capital relief as the challenges of the pandemic continue to linger and the nation moves into a mode of economic recovery. Despite healthy balance sheets, credit union asset growth due to stimulus money has created additional pressure on net worth ratios, and it remains uncertain how long these effects will last. Accordingly, expeditious relief to simplify the final RBC rule will enable credit unions to focus more of their resources on helping their members overcome financial hardship, rebuild America's communities, and reduce administrative burdens that stand in the way of member service.

If you have any questions or concerns, please do not hesitate to contact me at amorris@nafcu.org or 703-842-2266.

Sincerely,

Andrew Morris
Senior Counsel for Research and Policy