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B. Dan Berger
President & Chief Executive Officer

National Association of Federally-Insured Credit Unions

September 7, 2018

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

RE: Material Risk-Based Capital

Dear Mr. Poliquin:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I would like to thank you for your continued commitment to revising the 2015 final rule on risk-based capital (RBC). The issue of what capital levels are appropriate for an institution to hold is of paramount importance to both credit union growth and the safety of the share insurance fund. Ultimately, we believe that statutory changes are required to provide credit unions with a modern capital regime, and that the risk-based capital rulemaking put into place in 2015 should be significantly revised or withdrawn prior to its implementation date.

Inherently, credit unions and the NCUA may have different opinions on appropriate capital levels for complex credit unions. In the past, these differences of opinion led to a robust debate and we expect they will lead to future debates. Subsequent to the finalization of the 2015 rule, NAFCU undertook a project to look at credit union capital with the goal of suggesting changes to the NCUA's rules. NAFCU's Regulatory and Legislative Committees looked closely at credit union data, bank data, economic trends and the NCUA's legal authority, in particular as it relates to comparable bank authority, to develop recommendations. Under the *Federal Credit Union Act*, credit union capital standards, including complex credit union standards, must be comparable to the standards for institutions insured by the Federal Deposit Insurance Corporation (FDIC).

After the study, earlier this year, NAFCU's Board of Directors completed its review of the committee recommendations. However, the passage of S. 2155 made changes to bank capital, and as a result, from a parity perspective, the appropriate level of credit union capital requires further study. Based on these circumstances, NAFCU believes that further changes to the capital rule are warranted beyond what the NCUA has proposed in its current rulemaking. Although NAFCU recognizes that the NCUA Board is not currently contemplating changes beyond what it has proposed, NAFCU strongly urges the NCUA to consider its entire rulemaking anew.

Relative to the current rulemaking, NAFCU supports the one-year delay at a minimum, but strongly believes that a two-year delay would better afford credit unions the time they need to make any adjustments and preparations to come into compliance.

During its study of capital rules this spring, NAFCU considered a very similar definition of "complex" to what the NCUA Board has currently proposed. Within the NCUA's current regulatory constructs, NAFCU supports the fresh approach to complexity, which takes volume of activity into consideration, but does not support a definition that divides the industry with a static asset threshold. In the preamble to this rulemaking, the NCUA indicates that through the supervisory process it will address material-risk capital levels for credit unions $500 million in assets and below. NAFCU suggests that for credit unions that are deemed "complex," the NCUA can utilize its supervisory authority to exempt, on a case-by-case basis, credit unions whose net worth ratio provides adequate protection from material risks irrespective of asset size.

NAFCU also asks the Board to expand the proposed one-year delay to include the grandfathering of "excluded goodwill" and "excluded other intangible assets," which were originally set to expire on January 1, 2029 in the final rule. The additional time would benefit credit unions that hold a significant amount of excluded goodwill or other intangible assets, as those terms are defined in the final RBC rule.

Thank you for your consideration and attention to this important matter. We look forward to working with you both now and in the future. Ultimately, as noted above, we believe statutory and additional regulatory changes are warranted to take the credit union industry into the future as nimble, responsive and responsible financial institutions. We urge the NCUA to work with credit unions to dramatically revise its risk based capital rule to only focus on true material risks.

If we can answer any questions or provide you with additional information regarding these recommendations, please do not hesitate to contact me or NAFCU's Executive Vice President and General Counsel, Carrie Hunt, at 703-842-2234 or chunt@nafcu.org.

Sincerely,

B. Dan Berger
President and CEO