



California Credit Union League

Serving Credit Unions in California and Nevada

SEP27'05 PM 3:07 BOARD

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September 20, 2005

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia

Re: Request for Comment - Regulatory Flexibility ("RegFlex") Program

Dear Ms. Rupp:

On behalf of the California and Nevada Credit Union Leagues, I am pleased to comment on the National Credit Union Administration (NCUA) Board's proposal to modify the minimum net worth and CAMEL eligibility criteria under the Regulatory Flexibility ("RegFlex") Program. Together, the California and Nevada Credit Union Leagues represent the largest state trade association for credit unions in the United States, serving 500 member credit unions in California and Nevada with 8.8 million members.

Background

To qualify automatically under the existing RegFlex Program, a credit union must meet two criteria. First, it must have a composite CAMEL rating of "1" or "2" for two consecutive examination cycles. Second, it must achieve a net worth of 9 percent – 200 basis points above the 7 percent net currently needed to be classified "well capitalized" under PCA – for a single Call Reporting period, unless it is subject to a risk-based net worth requirement ("RBNW") requirement. In that case, the credit union's net worth must surpass its RBNW requirement by 200 basis points.

The Proposed Rule

The proposed rule sets the qualifying minimum net worth level for RegFlex to the "well capitalized" net worth category under PCA (currently 7 percent). Credit unions that are subject to an RBNW requirement would qualify for RegFlex if they remained "well capitalized" after applying any RBNW requirement applicable under PCA. In addition, the proposed rule states that a credit union must maintain this "well capitalized" level for all six preceding consecutive quarters to qualify for RegFlex.

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Our Position

First, the California and Nevada Credit Union Leagues wholeheartedly agree that credit unions should not be held to a higher net worth standard to qualify for RegFlex than Congress has set for credit unions to be free of PCA. We applaud the NCUA for its initiative to provide well-managed, well-capitalized credit unions the flexibility needed to effectively compete, grow, and serve their members, and appreciate the consistency the proposal would bring between the RegFlex and PCA regulations. We believe this flexibility and consistency is best realized by aligning the qualifying minimum net worth level for RegFlex with the “well capitalized” net worth category under PCA, not by “hard coding” it at 7 percent (or any other specific percentage) within the RegFlex regulation.

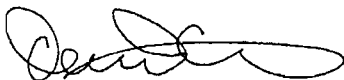
Some bankers have argued against aligning RegFlex eligibility with the “well capitalized” level under PCA, stating that the PCA reform package currently under consideration in Congress (H.R. 2317) would lower the PCA “well capitalized” net worth requirement to 5 percent, and ultimately lead to increased risk to the NCUSIF. This argument is unfounded and hypocritical. There is no evidence that the activities and flexibility permitted under RegFlex – when engaged in by a healthy, well capitalized credit union – significantly increase risk to the Fund. Indeed, banks – which have benefited from net worth requirements similar to those proposed under H.R. 2317 for years – are free from regulatory restrictions on many of the activities and flexibilities credit unions can only engage in through RegFlex relief (e.g., maximum limit on fixed assets, maximum limits on certain types of deposits, and prohibitions on purchasing commercial mortgage related securities). Does their expanded authority (and lower capital requirement) jeopardize the Bank Insurance Fund?

Secondly, the Leagues fully support the proposal’s provision that a credit union maintain a “well capitalized” level for six consecutive quarters to qualify for RegFlex. We agree with the Board that a longer period is a better indicator of superior performance, and a reasonable provision in light of lowering the capital requirement for RegFlex eligibility.

Finally, the Leagues also agree that the requirement for NCUA to notify credit unions that automatically qualify for RegFlex is redundant and unnecessary. A well-managed credit union will be sufficiently aware of its RegFlex eligibility based on its Call Reports and past examination ratings.

In closing, the California and Nevada Credit Union Leagues commend the NCUA’s continuing efforts to provide more options for credit unions and their members while also preserving credit union safety and soundness. We enthusiastically support the proposed rule, and appreciate the opportunity to express our views on it.

Sincerely,



David L. Chatfield
President/CEO