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**VIA Federal Rulemaking Portal**

October 12, 2021

Ms. Melane Conyers-Ausbrooks

Secretary of the Board

National Credit Union Administration

1775 Duke Street

Alexandria, VA 22314

RE: **RIN 3133-AF12 -** **The Complex Credit Union Leverage Ratio; Risk-Based Capital**

Dear Ms. Conyers-Ausbrooks:

On behalf of Virginia’s credit unions, I am writing to the National Credit Union Administration (NCUA) providing our input for the agency proposed rule that would provide a simplified measure of capital adequacy for credit unions classified as complex (total assets greater than $500 million). Of Virginia’s 111 credit unions, twenty-two (22) are complex. The Virginia Credit Union League (VACUL) generally supports the objective of the Complex Credit Union Leverage Ratio (CCULR) to provide a simpler option to risk-based capital. However regardless of the methodology and calculation, VACUL does not believe credit unions should be subject to more stringent capitalization requirements than community banks. The credit union threshold for being designated as well capitalized (10% by January 1, 2024) should be no more than the 9% requirement under the Community Bank Leverage Ratio (CBLR) framework.

We provide the following additional comments for consideration:

**Transition period:** As stated above, we believe that the 9% leverage is most appropriate in providing regulatory relief consistent to CBLR requirements for banks with which credit unions must compete. Consequently, establishing an 8% rate for designation as well capitalized in the transition period is desired. The two-year transition should also be extended as we still cannot predict the duration of balance sheet growth resulting from the pandemic and government stimulus spending. A minimum transition period of three years should be considered.

**Delayed enactment:** The January 1, 2022 effective date of the risk-based capital rule should be delayed to January 1, 2023 given this option of CCULR is still pending two short months out. Further, changes to the Call Report necessary to document the calculations are still pending.

**Qualifying Criteria and Goodwill Treatment:** Under the proposal, the qualifying criterion for a complex credit union to choose the CCULR are overly broad and complex. Analysis of off-balance sheet exposures can be better assessed through the supervisory examination process.

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Specifically related to goodwill, the rule should differentiate between supervisory goodwill and

elective goodwill in all risk-based capital ratios and CCULR criteria. Under the 2015 Final Risk-Based Capital Rule, excluded goodwill is defined as the outstanding balance, maintained in accordance with GAAP, of any goodwill originating from a supervisory merger or combination that was completed on or before December 28, 2015. Importantly, this treatment of goodwill will expire *January 1, 2029*. Excluded other intangible assets is defined as the outstanding balance, maintained in accordance with GAAP, of any other intangible assets such as core deposit intangible, member relationship intangible, or trade name intangible originating from a supervisory merger or combination that was completed on or before December 28, 2015. This term and definition will also expire on *January 1, 2029*.

The NCUA Board should honor the commitment made to credit unions acquiring goodwill through agency facilitated mergers of troubled credit unions. Deducting supervisory goodwill from regulatory capital restricts growth and decreases the likelihood that a healthy, well-capitalized credit union will assist with a supervisory merger of an under-capitalized credit union. Establishing a formal process for permanently grandfathering supervisory goodwill acquired prior to 2015 is needed in assessing risk-based capital.

We specifically ask that NCUA allow credit unions to include goodwill in the numerator of calculation for purposes of CCULR. GAAP classifies goodwill as an asset because it provides an ongoing revenue benefit. Only goodwill that is impaired should be deducted.

**Opt-in framework:** We do not believe a credit union should have to “opt-in” for CCULR. Utilization of the CCULR each quarter should be a determination made by the credit union through completing the relevant sections of the Call Report.

**Summary:** VACUL appreciates the opportunity to comment and supports a well-capitalized, safe and sound industry. We do not believe credit unions should be required to hold excess capital (greater than 9% net worth) to choose the CCULR option. In fact, the 2015 Final Rule from which the current proposal stems is unnecessary to protect the NCUSIF and the solvency of the industry. The higher capital ratios will restrict credit union growth and mean less resources to invest in products and services that benefit the member-owners. The future success of the credit union system is dependent on institutional ability to grow and compete. Overly restrictive regulatory requirements for capitalization inhibit growth. The credit union system as a whole is well capitalized today, and additional burdens are unwarranted.

Sincerely,

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Carrie Hunt

President/CEO