

## **Supplemental Capital Should be Included in the Risk-Based Capital Numerator**

As we noted in our first-round comment letter, NCUA has the authority to define the elements of the risk-based capital ratio. Because Congress did not speak directly to the calculation of risk-based capital, NCUA need not be limited by §1790d(0)(2) in defining what constitutes the ratio elements. Therefore, NCUA should take this opportunity to strengthen the utility of supplemental capital for credit unions, while the system advocates for a wider legislative solution that will redefine the net-worth ratio.

Including supplemental forms of capital in the risk-based capital numerator could help protect the NCUSIF from losses by encouraging credit unions to attract additional loss-absorbing forms of capital that they would otherwise forego. There is a cost associated with issuing supplemental capital (whether in the form of subordinated debt or member contributions) and without that capital counting toward PCA requirements, credit unions have no incentive to bear the cost. If supplemental capital were to count toward regulatory capital, it would benefit the credit union by allowing it to expand products and services without diluting regulatory capital, and it would protect the NCUSIF by incentivizing credit unions to attract private capital that could absorb losses before causing a hit to the insurance fund.

We encourage NCUA to drop a placeholder in this rule that would include supplemental forms of capital, as defined by the NCUA Board and approved by the NCUA or appropriate state supervisory authority, in the risk-based capital numerator. Specific criteria could be developed between finalizing the rule and its effective date in 2019. When setting those criteria, we encourage NCUA to set broad standards that would ensure the products are consistent with the cooperative nature of credit unions and safety and soundness principles. Instead of dictating specific products, NCUA should allow the marketplace to develop the most efficient and cost effective solution possible within appropriate parameters. A few of the broad standards that would be prudent in a supplemental capital rulemaking include:

- ✓ Disclosures regarding the uninsured nature of the product
- ✓ Subordinate to all other claims
- ✓ Unconditionally cancellable and ability to prepay
- ✓ Minimum maturity requirements

Several states have already authorized certain forms of supplemental capital for their non-low income credit unions, but without PCA capital treatment these tools have not been a cost effective resource for credit unions to date. NASCUS urges NCUA to consider and incorporate these preapproved forms of capital in their definition of supplemental capital, both to facilitate timely access to this tool for credit unions, and to provide a roadmap and testing ground for NCUA as it develops its own standards.