NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702 and 703

NCUA-2021-0010

RIN 3133-AF35

Simplification of Risk Based Capital Requirements

AGENCY: National Credit Union Administration

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The National Credit Union Administration (NCUA) Board (Board) is issuing this advance notice of proposed rulemaking (ANPR) to solicit comments on two approaches to simplify its risk-based capital requirements. The Board's risk-based capital requirements are set forth in a final rule dated October 29, 2015, which is currently scheduled to become effective on January 1, 2022. The delayed effective date has provided the Board with additional time to evaluate the capital standards for federally-insured credit unions (FICUs) that are classified as "complex" (those with total assets greater than $500 million). The first approach would replace the risk-based capital rule with a Risk-based Leverage Ratio (RBLR) requirement, which uses relevant risk attribute thresholds to determine which complex credit unions would be required to hold additional capital (buffers). The second approach would retain

the 2015 risk-based capital rule but enable eligible complex FICUs to opt-in to a "complex credit union leverage ratio" (CCULR) framework to meet all regulatory capital requirements. The CCULR approach would be modeled on the "Community Bank Leverage Ratio" framework, which is available to certain banks.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments, by any of the following methods (**Please send comments by one method only**):

- Federal eRulemaking Portal: http://www.regulations.gov. The docket number for this advance notice of proposed rulemaking is NCUA-2021-0010. Follow the instructions for submitting comments.
- Fax: (703) 518–6319. Include "[Your name] Comments on "Simplification of Risk Based Capital Requirements" in the transmittal.
- Mail: Address to Melane Conyers Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- Hand Delivery/Courier: Same as mail address.

Public inspection: All public comments are available on the Federal eRulemaking Portal at http://www.regulations.gov as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information.

Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518-6540 or e-mailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: *Policy*: Thomas Fay, Director, Division of Capital Markets, Office of Examination and Insurance, at (703) 518-1179; *Legal*: Rachel Ackmann, at (703) 548-2601 or Ariel Pereira, at (703) 548-2778; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314

SUPPLEMENTARY INFORMATION

I. Background

II. This ANPR

III. Legal Authority

IV. Risk-Based Leverage Ratio (RBLR)

V. Complex Credit Union Leverage Ratio (CCULR)

VI. Timeline

VII. Conclusion

I. Background

Capital adequacy standards are a prudential tool to protect the safety and soundness of individual credit unions and the credit union system as a whole. Capital serves as a buffer for credit unions to prevent institutional failure during times of stress. During a financial crisis, a buffer can mean the difference between the financial institution surviving or failing. Higher

levels of capital insulate credit unions from the effects of adverse developments in assets and liabilities, allowing credit unions to continue to serve as credit providers during times of stress without government intervention. Higher levels of capital also reduce the probability of a systemic crisis, producing benefits that generally outweigh the associated costs.

On August 7, 1998, Congress enacted the Credit Union Membership Access Act (CUMAA).[1] CUMAA addressed credit union capital adequacy standards by adding section 216 to the Federal Credit Union Act (FCUA).[2] Section 216 directed the Board to adopt a regulation to establish a system of prompt corrective action (PCA) to restore the net worth of all FICUs if they are inadequately capitalized. Section 216 requires supervisory actions indexed to five statutory net worth categories, ranging from well capitalized to critically undercapitalized. The mandatory actions and conditions triggering conservatorship and liquidation are expressly prescribed by statute.[3] To supplement the mandatory actions, section 216 charged the NCUA with developing discretionary actions which are comparable to the discretionary safeguards available under section 38 of the Federal Deposit Insurance Act—the statute that applies PCA to other federally insured depository institutions.[4]

Section 216(d)(1) of the FCUA requires that the NCUA's PCA system include, in addition to the statutorily defined net worth ratio requirement, "a risk-based net worth

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[1] Pub. L. 105–219, 112 Stat. 913 (1998).

[2] The FCUA is codified at 12 U.S.C. 1751 *et seq.* Section 216 of the act is codified at 12 U.S.C. 1790d.

[3] 12 U.S.C. 1790d(e), (f), (g), (i); 12 U.S.C. 1786(h)(1)(F), 1787(a)(3)(A).

[4] 12 U.S.C. 1790d(b)(1)(A). Section 38 of the FDI Act, 12 U.S.C. 1831o, was added by section 131 of the Federal Deposit Insurance Corporation Improvement Act, Pub. L. No. 102–242, 105 Stat. 2236 (1991).

requirement" for credit unions that are complex, as defined by the Board.[5] The FCUA directs the NCUA to base its definition of "complex" credit unions "on the portfolios of assets and liabilities of credit unions."[6] If a credit union is not classified as complex, as defined by the NCUA, it is not subject to a risk-based net worth requirement. The NCUA implemented the regulatory PCA system mandated by section 216 through a final rule published on February 18, 2000.[7] The NCUA's PCA regulations are codified in 12 CFR part 702.

Following the 2007–2009 recession, the NCUA substantially reevaluated the capital adequacy standards codified in part 702. On October 29, 2015, the Board published a final rule restructuring the PCA regulations (2015 Final Rule).[8] The overarching intent of the 2015 Final Rule was to reduce the likelihood that a relatively small number of high-risk credit unions would exhaust their capital and cause large losses to the National Credit Union Share Insurance Fund (NCUSIF). Under the FCUA, FICUs are collectively responsible for replenishing losses to the NCUSIF.[9]

The 2015 Final Rule restructured the NCUA's current capital adequacy regulations and made various revisions, including amending the agency's risk-based net worth requirement, by

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[5] 12 U.S.C. 1790d(d)(1).

[6] 12 U.S.C. 1790d(d).

[7] 65 FR 8560 (Feb. 18, 2000).

[8] 80 FR 66626 (Oct. 29, 2015).

[9] *See* 12 U.S.C. 1782(c)(2)(A). The FCUA requires that each FICU pay an insurance premium equal to a percentage of the FICU's insured shares to establish sufficient reserves in the NCUSIF to pay potential share insurance claims, and to provide assistance in connection with the liquidation or threatened liquidation of FICUs in troubled condition.

replacing a credit union's risk-based net worth ratio with a risk-based capital ratio.[10] The risk-based capital requirements in the 2015 Final Rule are more consistent with the NCUA's risk-based capital ratio measure for corporate credit unions, and are more comparable to the risk-based capital measures implemented by the Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System (Federal Reserve Board), and Office of the Comptroller of Currency (OCC) (collectively, the other banking agencies).[11]

The risk-based capital provisions of the 2015 Final Rule apply only to credit unions that are "complex," which the rule defined as those with total assets over $100 million.[12] On November 6, 2018,[13] the Board published a supplemental final rule that raised the threshold level for a "complex" credit union to $500 million (2018 Supplemental Rule). Therefore, only credit unions with over $500 million in assets are now subject to the risk-based capital requirements of the 2015 Final Rule. The 2018 Supplemental Rule also delayed the effective date of the 2015 Final Rule for one year (from January 1, 2019, to January 1, 2020).

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[10] For purposes of this ANPR, the term "risk-based net worth requirement" is used in reference to the statutory requirement for the Board to design a capital standard that accounts for variations in the risk profile of complex credit unions. The term "risk-based capital ratio" is used to refer to the specific standards established in the 2015 Final Rule to function as criteria for the statutory risk-based net worth requirement. The term "risk-based capital ratio" is also used by the other banking agencies and the international banking community when referring to the types of risk-based requirements that are addressed in the 2015 Final Rule. This change in terminology throughout the ANPR is intended only to reduce confusion for the reader.

[11] The Federal Reserve Board and OCC issued a joint final rule on October 11, 2013 (78 FR 62018), and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). On April 14, 2014 (79 FR 20754), the FDIC adopted the interim final rule as a final rule with no substantive changes.

[12] *See*, *supra* note 8.

[13] 83 FR 55467 (Nov. 6, 2018).

The effective date was delayed a second time through a final rule published on December 17, 2019 (2019 Supplemental Rule).[14] The amendments are now scheduled to become effective on January 1, 2022. The delay has provided credit unions and the NCUA with additional time to implement the 2015 Final Rule. Further, as explained in the 2019 Supplemental Rule, the delay provided the Board additional time to evaluate the NCUA's capital standards for credit unions.[15] The 2019 Supplemental Rule provided several examples of issues the Board would consider during the delay, including asset securitization, the implementation of the Financial Accounting Standards Board's final current expected credit loss (CECL) methodology, and amendments to the 2015 Final Rule for subordinated debt. Additionally, the delay provided additional time for the NCUA to prepare for internal modernization projects to support the 2015 Final Rule.[16] The proposed rule also stated the Board would use the delay to consider whether a community bank leverage ratio (CBLR) analog should be integrated into the NCUA's capital standards.[17]

II. This ANPR

The ANPR is an invitation from the Board to participate in shaping potential changes to the 2015 Final Rule. The Board has interacted with stakeholders on the subject of capital requirements going back to 1998, when Congress established the PCA requirements for FICUs. There have been several NCUA rulemakings regarding capital requirements since 1998. Stakeholders have made it clear to the Board that any capital requirements should be: tailored to

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[14] 84 FR 68781 (Dec. 17, 2019).

[15] *Id.* at 68782.

[16] *Id.*

[17] *Id.*

the unique risks of credit unions; simple in structure; and, designed to avoid unnecessary regulatory burden. This consistent feedback, tempered by the Board's ongoing commitment to adapt and improve capital standards based upon stakeholder input and lessons learned, remains a driving impetus behind this ANPR.

As noted above, this ANPR invites comments on the RBLR and CCULR approaches to the risk-based capital requirements. The RBLR approach would replace the 2015 Final Rule in its entirety. The RBLR approach uses relevant risk attribute thresholds to determine which complex FICUs would be required to hold an additional capital buffer above what is currently specified in the PCA regulations. The CCULR approach would retain the 2015 Final Rule, but would enable eligible complex FICUs to opt-into a framework to meet all regulatory capital requirements. Accordingly, the two approaches outlined are mutually exclusive, and the CCULR would not be available under the RBLR.

This ANPR also poses questions designed to garner critical insight into how stakeholders view the implicit tradeoff between a reduction in the complexity and burden of the capital requirements in exchange for holding potentially higher amounts of mandatory capital above the seven percent net worth ratio necessary to be classified as well capitalized. The Board would benefit from hearing the views of FICUs on these possible enhancements now, to allow time to disseminate one of these approaches before the 2015 Final Rule is scheduled to take effect. The Board also invites any other recommendations that might similarly provide regulatory relief without diminishing the efficacy of its capital regulation and standards.

III. Legal Authority

The Board is issuing this ANPR pursuant to its authority under the FCUA. Under the FCUA, the NCUA is the chartering and supervisory authority for Federal credit unions and the federal supervisory authority for state-chartered FICUs.[18] The FCUA grants the NCUA a broad mandate to issue regulations governing both Federal credit unions and all FICUs. For example, section 120 of the FCUA is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCUA.[19] Other provisions of the FCUA, such as section 216, confer specific rulemaking authority to address prescribed issues or circumstances.[20] Accordingly, the FCUA grants the Board broad rulemaking authority to protect the safety and soundness of the credit union industry and the NCUSIF. This ANPR is being issued under both the general rulemaking authority conferred by section 120 of the FCUA and as discussed in this preamble, the more specific grant of authority under section 216.

IV. Risk-Based Leverage Ratio (RBLR)

A. Overview of RBLR Approach

As an alternative to the 2015 Final Rule, the Board is seeking comment on a simplified capital framework that satisfies the risk-based net worth requirement for complex FICUs. The

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[18] 12 U.S.C. 1752-1775.

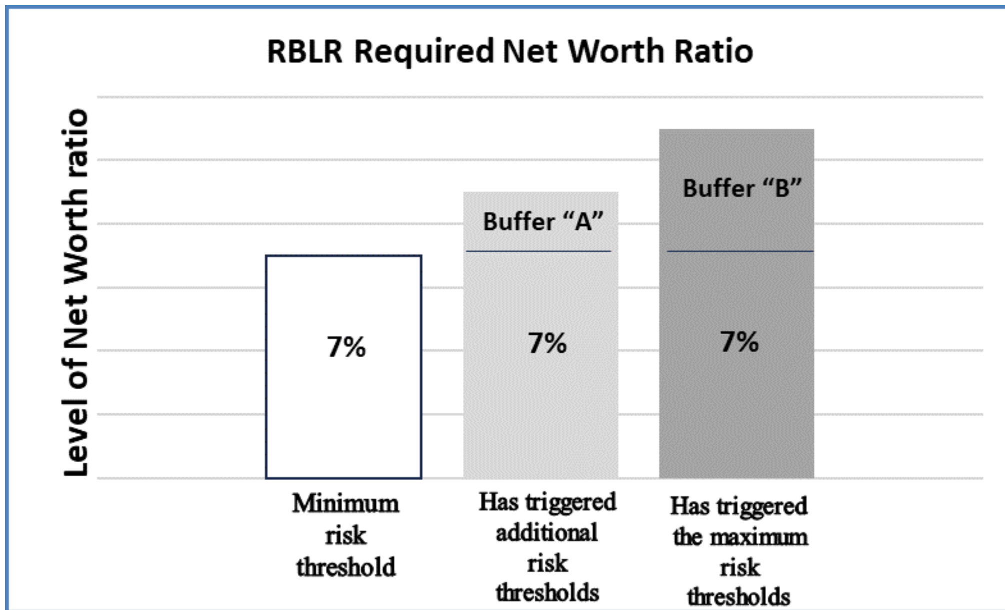
[19] 12 U.S.C. 1766(a).

[20] Other provisions of the FCUA providing the Board with specific rulemaking authority include section 207 (12 U.S.C. 1787), which is a specific grant of authority over share insurance coverage, conservatorships, and liquidations. Section 209 (12 U.S.C. 1789) grants the Board plenary regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.

Board's intention for the RBLR approach is to simplify the regulatory risk-based capital requirements, while ensuring the overall capital framework:

(1) complies with all applicable statutory and legal requirements, including the statutory PCA requirements;
(2) is easier to understand and use; and
(3) effectively identifies risk characteristics that trigger commensurate capital requirements.

The RBLR approach would utilize certain risk characteristics to determine the required capital level. This approach differs from the 2015 Final Rule, where all assets and certain off-balance sheet activities are categorized into risk groups and then risk-weighted to produce a risk-based ratio. The Board is also considering using the net worth ratio as the RBLR measurement, which is already a well-established, simplified, and observable measurement. The net worth ratio would be supplemented with mandatory capital buffers when certain risk factors are triggered. This approach, illustrated in the chart below, would require 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. The amount of the capital buffer would be a discreet percentage of net worth-to-total assets over seven percent and would be a mandatory capital requirement.



The Board is considering basing the RBLR risk factors on the asset categories from the 2015 Final Rule, which utilize higher risk weightings. For example, there are a number of risk-based capital categories under the 2015 Final Rule that receive a risk weighting greater than 100 percent. These categories include:

- 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.

The Board may also consider other asset concentration risk factors in developing risk thresholds.

As previously mentioned, the Board seeks a reduction in the administrative burden of categorizing all assets and off-balance balances into risk categories. The RBLR approach would identify certain risk factors and establish thresholds that would trigger a capital buffer. The buffer amount might also vary based on the level of the applicable threshold. For example, if a FICU held a certain amount of commercial loans as a percentage of assets that triggered a "Buffer A" capital requirement, then the FICU would be required to hold a higher net worth ratio to maintain a well-capitalized classification. However, if a second and higher threshold were established for commercial loans, then it is possible that the FICU will be required to hold an additional amount of capital above the first buffer amount (Buffer B).

The Board's intention is that the RBLR will streamline compliance with capital requirements without sacrificing the safety and efficacy of the overall capital regime. As envisioned, the greater simplicity would come from converting the current computational framework for complex credit unions into a three-tiered system of minimum leverage ratios for all complex FICUs. The minimum leverage ratio necessary to be well capitalized under RBLR would remain at seven percent, with two higher tiers applied to those complex credit unions exhibiting quantified amounts of higher relative risk. The defining risk attributes would be a function of the types and concentration of underlying assets.

Basing the RBLR on the net worth ratio would significantly reduce the Call Report requirements and utilize a measurement that FICUs are already familiar with. However, while an RBLR approach would be simpler, it may also result in a higher capital requirement for certain FICUs that have riskier assets when compared to the risk-based capital framework. The Board welcomes input on which asset types and concentrations stakeholders view as most

significant to establish capital buffers in excess of the seven percent threshold. The Board also welcomes views on the practicality of having discreet thresholds above seven percent to guard against higher risk, and striking the right balance between adequate buffers and the efficient allocation of capital.

Question 1: The Board invites comments on the merits of incorporating the RBLR approach as an alternative to the risk-based capital framework under the 2015 Final Rule. What risk characteristics should be incorporated into the RBLR? Are the higher risk-weighted asset categories from the risk-based capital framework the correct starting point, or should the Board consider a different approach?

Question 2: The Board invites comments on what risk thresholds should be used for the risk factors. What measurements should be used and how would the measurement be reported and monitored? Should there be more than one capital buffer for a risk factor based on the measurement? How would multiple measurements be combined or weighted to determine the threshold?

Question 3: The Board invites comments on what capital buffers over the well-capitalized seven percent threshold should be used?

B. Impact of RBLR on Subordinated Debt Final Rule

The Board recognizes that any changes to the regulatory capital framework have potential consequences for other NCUA rulemakings. Other than the changes required to implement any

regulatory capital framework changes, the Board believes the RBLR approach would require the NCUA to modify its recent final rulemaking regarding subordinated debt (Subordinated Debt Rule).[21] The Subordinated Debt Rule is a direct amendment to the 2015 Final Rule. As such, elimination of the 2015 Final Rule would alter the form and structure of the Subordinated Debt Rule. Further, the current Subordinated Debt Rule allows a complex credit union that is not designated as a "low-income credit union" (LICU) to issue subordinated debt to include in the risk-based capital numerator.[22] In an RBLR approach, non-LICU complex credit unions may or may not be able to apply subordinated debt towards a capital calculation, depending on the ultimate design of the approach and the relevant legal and policy considerations.

The Board would be required to evaluate the ability of non-LICU complex credit unions to use a subordinated debt instrument for the RBLR, as the FCUA includes a definition of "net worth," which only allows LICUs to include such instruments in their net worth. The potential absence of utility for non-LICU complex credit unions and the structural changes resulting from the repeal of the 2015 Final Rule may require amendments to the Subordinated Debt Rule. However, the Board notes the Subordinated Debt rule would not need to be modified with respect to non-complex LICUs and new credit unions. Changes to the Subordinated Debt rule would be focused on moving the rule from its current location in the 2015 risk-based capital rule,

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[21] The final rule was approved by the Board at the December 17, 2020 meeting. *See*, https://www.ncua.gov/files/agenda-items/AG20201217Item5b.pdf.

[22] Subject to a 20 percent per annum discounting of outstanding Subordinated Debt once the remaining maturity is less than five years.

removing references to the risk-based capital rule, and amending the rule for possible use by complex credit unions of Subordinated Debt to meet any proposed RBLR.

Question 4: The Board invites comments on how a non-LICU complex credit union may be able to apply subordinated debt towards an RBLR capital calculation.

V. Complex Credit Union Leverage Ratio (CCULR)

Section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act directed the other banking agencies to propose a simplified, alternative measure of capital adequacy for certain federally insured banks.[23] On November 13, 2019, the other banking agencies issued a final rule implementing this statutory directive (CBLR Final Rule).[24]

The CBLR is an optional framework to the risk-based capital requirements for depository institutions and depository institution holding companies that meet the following criteria:

1. A leverage ratio (equal to tier 1 capital divided by average total consolidated assets) of greater than nine percent;[25]
2. Total consolidated assets of less than $10 billion;
3. Total off-balance sheet exposures of 25 percent or less of its total consolidated assets;

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[23] Pub. L. 115-174 (May 24, 2018). Section 201 is codified at 12 U.S.C. 5371 note.

[24] 84 FR 61776 (Nov. 13, 2019).

[25] Under section 4012 of Pub. L. 116-136 (Mar. 27, 2020), the CBLR was temporarily set to 8 percent. *See*, 85 FR 22924 (Apr. 23, 2020). Under the statute, the temporary CBLR of 8 percent expired on December 31, 2020. The CBLR will transition back to 9 percent during calendar year 2021. *See*, 85 FR 22930 (Apr. 23, 2020).

4. Trading assets plus trading liabilities of five percent or less of its total consolidated assets; and
5. Not an advanced approaches banking organization.[26]

The CBLR Final Rule refers to the depository institutions and depository institution holding companies that meet these regulatory criteria as "qualifying community banking organizations." Qualifying community banking organizations that opt into the CBLR framework are considered to be in compliance with the other banking agencies' generally applicable risk-based and leverage capital requirements. Further, for the purposes of section 38 of the Federal Deposit Insurance Act,[27] these qualifying banking organizations will have met the well-capitalized ratio requirements. In exchange, the qualifying banking organization must maintain a greater amount of capital than normally required to be deemed well capitalized. Qualifying community banking organizations may opt into or out of the CBLR framework at any time.

The CBLR Final Rule includes 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 nine 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. At the end of the grace period, the banking organization must

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[26] Advanced approaches banking organizations are generally those with at least $250 billion in total consolidated assets or at least $10 billion in total on-balance sheet foreign exposure, and depository institution subsidiaries of those firms.

[27] As noted previously, this is the statute that applies PCA to federally insured depository institutions, as defined under the Federal Deposit Insurance Act.

meet all qualifying criteria to remain in the CBLR framework or otherwise must comply with and report under the generally applicable risk-based and leverage capital requirements. Similarly, a banking organization that fails to maintain a leverage ratio greater than eight percent will not be permitted to use the grace period and must comply with the generally applicable capital requirements and file the appropriate regulatory reports.

In March 2020, the CBLR was temporarily set to eight percent by statute.[28] Accordingly, effective the second quarter of 2020, the CBLR requirement was eight percent or greater.[29] Banking organizations are still subject to a two-quarter grace period if they do not meet any of the eligibility criteria and may remain under the CBLR framework, provided that their leverage ratio is above seven percent during the grace period. Beginning in 2021, the CBLR requirement will be 8.5 percent or greater and the minimum requirement during the grace period will be 7.5 percent.[30] Beginning in 2022, the CBLR requirement will return to nine percent and the minimum requirement during the grace period will return to eight percent.

In the preamble to the 2019 Supplemental Rule, the Board explained that it might consider a capital standard analog to the CBLR framework developed by the other banking agencies—referred to in this ANPR as CCULR. The CCULR approach would be based on the principles of the CBLR framework and, for complex credit unions that meet specified qualifying criteria and have opted into the approach, would provide relief from the requirement to calculate

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[28] *Supra*, note 22.

[29] *See*, 85 FR 22924 (Apr. 23, 2020).

[30] *See*, 85 FR 22930 (Apr. 23, 2020).

a risk-based capital ratio, as implemented by the 2015 Final Rule. In exchange, the qualifying complex credit union would be required to maintain a higher net worth ratio than is otherwise required for the well-capitalized classification. This is a similar trade-off to the one made by qualifying community banking organizations under the CBLR.

As noted above, the 2015 Final Rule is scheduled to take effect on January 1, 2022. Accordingly, a CCULR approach would be parallel to the 2015 Final Rule and would not take effect until January 1, 2022. Qualifying complex credit unions would not be able to opt into the proposed CCULR approach prior to this effective date.

In designing the CCULR, the Board would seek to further the goal of the FCUA's PCA requirements by requiring that complex credit unions continue to hold capital commensurate with their risks, while minimizing the burden associated with complying with the NCUA's risk-based capital requirement. The Board welcomes comments on a possible adoption of the CCULR and, in particular, seeks input on the following issues:

Question 5: The Board invites comments on the merits of incorporating the CCULR in its capital adequacy regulations. Should the NCUA capital framework be amended to adopt an "off-ramp" such as the CCULR to the risk-based capital requirements of the 2015 Final Rule?

Question 6: The Board invites comment on the criteria for CCULR eligibility. Should the Board adopt the same qualifying criteria as established by the other banking agencies for the CBLR? In recommending qualifying criteria regarding a credit union's risk profile, please

provide information on how the qualifying criteria should be considered in conjunction with the calibration of the CCULR level under question 7, below.

Question 7: What assets and liabilities on a FICU's Call Report should the Board consider in determining the net worth threshold? How should each of these items be weighted?

Question 8: What are the advantages and disadvantages of using the net worth ratio as the measure of capital adequacy under the CCULR? Should the Board consider alternative measures for the CCULR? For example, instead of the existing net worth definition, the CCULR could use the risk-based capital ratio numerator from the 2015 Final Rule, similar to the "Tier 1 Capital" measure used for banking institutions.

Question 9: Should all complex credit unions be eligible for the CCULR, or should the Board limit eligibility to a subset of these credit unions? For example, the Board could consider limiting eligibility to the CCULR approach to only complex credit unions with less than $10 billion in total assets.

Question 10: The Board invites comment on the procedures a qualifying complex credit union would use to opt into or out of the CCULR approach. What are commenters' views on the frequency with which a qualifying complex credit union may opt into or out of the CCULR approach? What are the operational or other challenges associated with switching between frameworks?

Question 11: The Board invites comment on the treatment for a complex credit union that no longer meets the definition of a qualifying complex credit union after opting into the CCULR approach. Should the Board consider requiring complex credit unions that no longer meet the qualifying criteria to begin to calculate their assets immediately according to the risk-based capital ratio? Should the Board provide a grace period for these credit unions to come back into compliance with the CCULR and, if so, how long of a grace period is appropriate? What other alternatives should the Board consider with respect to a complex credit union that no longer meets the definition of a qualifying complex credit union and why? Is notification that a credit union will not meet the qualifying criteria necessary?

VI. Timeline

As discussed above, the 2015 Final Rule will be effective January 1, 2022. The Board expects that any final rule developed in response to this ANPR would be issued before the effective date of the 2015 Final Rule. Accordingly, the Board expects that any notice of proposed rulemaking issued in response to this ANPR would be issued by midyear of 2021. Once comments are received, the Board will evaluate the comments and direct NCUA staff to move forward in drafting any proposed rule to meet this timeline.

VII. Conclusion

The Board is committed to tailoring its capital requirements to the unique features of credit unions. The two approaches outlined in this ANPR are designed to accomplish this goal without reducing the effectiveness of the Board's capital standards. The RBLR approach would replace the 2015 Final Rule risk-based capital requirements using relevant risk attribute thresholds that would require additional capital buffers. The CCULR would enable eligible complex FICUs to opt-into a framework to meet all regulatory capital requirements. The Board invites comments on these two options, as well as on any other recommendations that might similarly accomplish the goals outlined in this ANPR. All comments will be considered in the development of a future proposed rule.

By the National Credit Union Administration Board, this 14th day of January, 2021.

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Melane Conyers Ausbrooks

Secretary of the Board