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May 26, 2011

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Proposed Rule – Incentive-based Compensation Arrangements

Dear Ms. Rupp:

This comment letter on the Proposed Rule for Incentive-based Compensation Arrangements is being written on behalf of the nine-member Board of Directors of Michigan First Credit Union. Michigan First serves over 85,000 members, primarily in Southeast Michigan, and has approximately $600 million in assets. Though the proposed rule does not currently impact us, it has the potential to have significant negative impact on the credit union industry and thus warrants a number of comments.

While the Request for Comments did not request comment on the entire Proposed Rule, we have significant comments on the following:

- It is our understanding the Dodd-Frank Act does not require financial institutions under the $50 billion asset level to be included, yet NCUA chose to drop the level down to $1 billion. We strongly disagree with that decision and are unaware of any situations in the credit union industry that warrant such a rule at that asset level. At a minimum, NCUA should state the business case to the credit union industry for making the change to $1 billion. Absent that, we encourage a return to the $50 billion level, even if no credit unions currently fall in that group.

- The new rule appears to violate the Michigan Credit Union Act. Article 3, Part 3, Section 490.342-3 of the Michigan Credit Union Act of 2003 enumerates the duties of a credit union board. In line "d", the Act states that the Board shall "employ a general manager and fix his or her compensation." It is clearly the responsibility of a credit union's duly elected Board, not the job of regulators, to set executive compensation levels. Board members understand the membership, operations, local economy, and know best how to operate the credit union.

- Best practices in the credit union industry have moved toward incentivizing executives to achieve certain objectives in order to receive additional compensation. By their very nature, they involve risk, as do our entire operations. Requiring credit unions to have their compensation plans approved by regulators, who by profession are risk-adverse, will have a chilling effect on credit union operations. It will likely discourage credit

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unions from incentivizing executives and other employees, resulting in fixed base compensation packages only.

- The terms "excessive compensation, fees, or benefits" and "could lead to material financial loss" are entirely subjective and will result in more conflict between the credit unions and regulators. They will likely be defined differently among individual credit unions and between geographic regions.

- There is no appeal process identified in the proposed rule. Anticipating that at least some credit union incentive plans will be denied, provisions should include a process of appeal to an independent decision-maker.

Following are comments on specific requests for feedback:

Proposed Effective Date
The very nature of regulatory agencies and the speed at which bureaucratic decisions are made make any dates problematic. Incentive plans are reviewed and/or developed as part of the annual budget process, which takes place during the fourth quarter of each year. Budget assumptions are made that include different incentive plans. The budget and business plans must be finalized no later than the middle of December in order to properly plan and notify staff and members of upcoming January 1st changes. Having to wait for a regulator to approve plans each year will likely mean a significant disruption in the annual budget/planning process. Even if the agency can guarantee a maximum two week turnaround time, this will be a negative issue.

Compensation
Credit unions do not offer stock options. In addition, long term compensation longevity plans not tied to any specific operational goals (SERPS) should be excluded.

Covered Financial Institutions
CUSO's should not be treated as separate financial institutions.

Covered Persons
The titles mentioned are acceptable except the "head of a major business line." This is too subjective a term.

Incentive Based Compensation
The definition as proposed is not appropriate. Credit union executives do not receive base salaries merely tied to continued employment. Credit union operations, by their very nature, contain all types of risk. Salaries are set to achieve positive results. The definition of "incentive based compensation" is too broad. For example, achieving the desired level of lending according to the business plan or budget is not considered an incentive type of compensation. It is considered part of the merit pay system. Offering a bonus for achieving strong financial performance should not be included in the definition. The definition should include only fringe type activities that can clearly be identified as riskier types of activities, not those associated with normal credit union operations.

Having an overly broad definition invites additional disputes between credit unions and regulators as to what constitutes normal risk and what is risk outside the mainstream. Credit unions already experience too much conflict with examiners over what is normal operational risk. The proposed rule, as written, will exacerbate the situation.

Required Reports
Unless the definition of what constitutes excessive risk is narrowed, the volume of paperwork required will likely be excessive. Having overly broad language in the rule only makes it more difficult for the regulator to measure and understand what is normal operational versus excessive risk. Since the local examiners have difficulty, it is likely a distant regulator will have difficulty as well.

Prohibitions/Excessive Compensation
It appears the Dodd-Frank Act does not require the reporting of individual compensation. Yet one of the standards allows the regulator to review the compensation history of the covered person. As noted earlier, terms such as "inappropriate risks" and "excessive" as defined by an individual regulator will inevitably lead to increasingly conservative decision-making by the regulators. No regulator will want to approve an incentive plan that covers any part of credit union operations where a loss may occur. In addition, how would one determine what would be considered "material financial loss?" This language is too broad and subjective. If it cannot be easily defined, it will be impossible to measure consistently.

To be specific, Michigan First serves many underserved members. Examiners are constantly encouraging us to do less lending to these members, even though there has been more than adequate demonstration the loan products are profitably priced. In fact, the examiners have said they don't consider profitability in measuring risk. Despite having a significantly high amount of capital, it is doubtful the regulators would approve any incentive compensation plan under the standards currently proposed.

Balance of Risk and Financial Rewards
Under the proposed standards and terms, it will be virtually impossible to put together an incentive plan that can accurately cover and measure all the types of risk identified. As noted in the proposal, some of the risk many not be realized for many years to come. Accurately matching risk versus reward cannot easily be done. If that cannot be done, how can alignment of reward with the risk occur?

In summary, this is a very bad rule. It is not the role of the regulator to run the credit union, particularly where no industry or individual compensation based problems have occurred. Within the current regulatory process, this proposed rule cannot be implemented easily on a practical level. Since there hasn't been a problem in the credit union industry involving excessive incentive-based compensation, it causes one to wonder whether the NCUA Board is really looking to solve a problem, or to usurp the responsibility of a credit union's Board of Directors.

It is clear that if Congress wanted credit unions above $1 billion in assets to be included under the law, they would have written the law to include them. Since there is no inclusionary language, we strongly urge you to abandon the $1 billion threshold and return to the $50 billion mandated by law.

Sincerely,

Ray Dudus

Ray Dudus
Board Chairman