

Gerard Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
[delivered via e-mail to regcomments@ncua.gov]

July 21, 2016

Re: Notice of Proposed Rulemaking for Incentive-Based Compensation Arrangements

Dear Mr. Poliquin:

Sharonview Federal Credit Union appreciates the opportunity to comment on the NCUA's proposed rules regarding incentive-based compensation arrangements. Like many other commenters, Sharonview supports the broad objectives of ensuring that improperly structured incentive compensation programs do not encourage excessive risk-taking that would jeopardize the safety and soundness of financial institutions. However, we are concerned about many aspects of the proposed rule, including:

1. Necessity of the rules. The Dodd-Frank Act allows the NCUA to issue "regulations or guidelines" with respect to incentive-based compensation arrangements. We do not believe that rulemaking is necessary when agency guidance can be sufficient to give credit unions clear guidance on appropriate design and administration of incentive programs. Historically, credit unions have neither behaved recklessly nor engaged in imprudent compensation programs for executives or employees. To the contrary, natural person credit unions have an admirable track record of avoiding undue risks and weathering financial downturns. CFPB Director Cordray has noted publicly that credit unions were not the cause of the financial crisis—to a great extent, we, like many of the members we serve, were victims of the irresponsible behavior of large banks and financial firms. We view the proposed rules as an unnecessary new regulatory burden on a segment of the financial services industry that has never been guilty of the excesses that prompted this rulemaking.
2. No consideration of redundancy and overlap with existing safeguards. The NCUA already has broad authority to examine and supervise insured credit unions. Furthermore, regulations with respect to loan-related incentives already exist (12 CFR 701.21(c)(8)) to ensure that credit unions are protected from conflicts of interest in their primary business activity—making loans to members. The proposed rules make no attempt to allow for existing regulatory safeguards or to exclude incentive-based compensation arrangements that already comply with existing requirements. A specific example of this problem is that there is no attempt to synchronize the definition of "senior executive officer" in the proposed rule with the definition of "senior management employee" in §701.21(c)(8)(ii).
3. Vague language. As many commenters have noted, the rules are constructed using vague and subjective terms, such as "excessive," "inappropriate," "unreasonable," "effective," "appropriate," or "material." This vagueness makes compliance virtually unattainable and

perfectly sets up scenarios where, with the clarity of hindsight, regulators can determine that incentive-compensation arrangements established in previous years were in fact too risky. The subjective nature of the rule exposes credit unions to regulatory criticism for making business decisions that were entirely reasonable at the time they were made.

4. No *de minimis* exceptions or exclusions. The proposed rules allow no *de minimis* exceptions, or for that matter, exclusions of any kind. The definition of “covered person” includes “any” executive officer, employee, or director; the definition of “incentive-based compensation” includes “any” variable compensation, the prohibitions and requirements (including board of director oversight, disclosure, and recordkeeping) apply to “all” incentive-based compensation plans. Even the most trivial of incentives—for example, offering employees movie tickets or gift cards for perfect attendance or meeting performance goals for the week or month—is fully subject to the rules, opening the door to inadvertent “violations.”

We urge the agency to withdraw the proposed rules and instead consider issuing guidance to credit unions that will more clearly set forth regulatory expectations for incentive-based compensation arrangements.

Sincerely,

Allen Leslie
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