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different direction

July 18, 2016

Gerard S. Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RE: Incentive-based Compensation Arrangements; Proposed Rule
12 CFR Parts 741 and 751, RIN 3133-AE48

Dear Mr. Poliquin:

SECU is an NCUA insured Maryland state-chartered credit union managing over $3 billion in assets. SECU provides a broad line of financial products and services to over 230,000 members.

We appreciate the opportunity to submit the following comments on the NCUA's proposed rule on incentive-based compensation arrangements.

As acknowledged by the Federal regulators in the proposed rule, incentive-based compensation arrangements are critical tools in the management of financial institutions that serve several important objectives, including attracting and retaining skilled staff and promoting better performance of the institution. Well performing financial institutions serve the American public and the financial system as a whole.

The proposed regulation cites flawed compensation practices amongst the largest financial institutions in the United States and around the world as the basis of the need for the proposed regulation. Credit unions and small and mid-size financial institutions played no part in the financial meltdown that started in 2007. On the contrary, credit unions and other small and mid-size financial institutions aided those consumers who were hard hit during the financial crisis by continuing to lend to qualified borrowers and offering payment assistance programs to those in need.

To burden credit unions and other small and mid-size financial institutions with additional regulatory burden for a problem they played no part in is a classic case of government overreach which could harm financial institutions that consumers rely upon, while providing absolutely no benefit to the U.S. financial system.

Please consider our comments to your proposed regulation.

Dodd Frank Act Section 956(a)(1)
Section 956(a)(1) of the Dodd Frank Act required the Federal regulators to jointly prescribe regulations <u>or guidelines</u> related to incentive-based compensation arrangements.

Since credit unions had no role in the financial meltdown which led to the Dodd Frank act, we believe the NCUA should issue guidance (as expressly allowed by the Act) in lieu of a regulation.

D. Riegle Community Development and Regulatory Improvement Act of 1994

In the proposed rule, the agencies acknowledge the requirement that each Federal Banking Agency, in determining requirements for a new regulation, consider any administrative burdens that such regulation would place on depository institutions as well as the benefits of such regulations pursuant to the Riegle Community Development and Regulatory Improvement Act of 1994. Although the agencies state that they have solicited comments on these matters and those comments will be considered, we believe the Agencies should have completed a cost-benefit analysis in advance of issuing the proposed rule in order to determine if a regulation was warranted and also to give commenters a chance to respond to the analysis of additional burden versus benefits to public and the financial system as a whole.

As stated above, we believe NCUA should be issuing guidance instead of a regulation. However, short of the withdrawal of the proposed regulation, we believe the proposed rule should be amended to include a cost-benefit analysis pursuant to the Riegle Community Development and Regulatory Improvement Act of 1994 and then republished with a new comment period prior to any further consideration for finalization.

§751.1(b) Scope

As proposed, the rule would apply to insured credit unions with average total consolidated assets greater than or equal to $1 billion that offer incentive-based compensation plans. Section 956(f) of the Dodd Frank Act expressly exempts financial institutions under $1 billion in assets.

Although Dodd-Frank requires the joint regulatory agencies (including NCUA) to issue a joint regulation or guidance and expressly exempts financial institutions under $1 billion in assets, we believe NCUA has the authority to set a higher threshold for credit union exemptions. In your summary titled *Section 956 of the Dodd-Frank Act Inter-Agency Proposed Rule on Incentive Compensation: Applicability to Federally Insured Credit Unions*, you state that as of the end of 2015, there were no federally insured credit unions in Level 1, there was one credit union in Level 2 and there were 257 credit unions in Level 3. We believe it is clear that any rule issued by NCUA will only bring undue costs on credit unions and will not result in any benefit since there are no credit unions large enough to harm the U.S. financial system. We strongly believe that all credit unions should be exempted from any new regulation.

§751.1(c)(2) Initial Applicability - Compliance Date; Grandfathered Plans

As proposed, the compliance date for this rule would be no later than the date of the beginning of the first calendar quarter that begins at least 540 days after the final rule is published in the Federal Register. Under the proposed rule, a credit union would not be required to comply with the requirements of the new rule with respect to any incentive-based compensation plan with a performance period that begins before the compliance date of the new rule.

We believe all existing incentive-based compensation arrangements should be permanently grandfathered until such time that the credit union makes a material change to the plan. Additionally, the rule should provide clarity as to what would constitute a material change to a grandfathered plan that would subject the previously grandfathered plan to the requirements of the new rule. Short of that goal, we believe the rule should be revised to clarify what types of revisions may be made to a grandfathered plan prior to the end of the initial performance period without losing its grandfathered status.

§751.2(gg) Definition; Senior Executive Officer
Under the proposed rule, a Senior Executive Officer's incentive-based compensation plan must be approved by the board of directors and would be subject to certain other requirements. As "Senior Executive Officer" is defined in the proposed rule, requirements would apply to anyone who performs the function of president, chief executive officer, executive chairman, chief operating officer, chief financial officer, chief investment officer, chief legal officer, chief lending officer, chief risk officer, chief compliance officer, chief audit executive, chief credit officer, chief accounting officer, or head of a major business line or control function, regardless of title, salary, or whether or not the employee has been appointed as an senior executive officer of the company.

We believe the definition of "Senior Executive Officer" should be limited to the CEO, and no other executives.

§751.4 Requirements and Prohibitions Applicable to all Credit Unions
As stated previously, we do not believe this rule should apply to any credit union, regardless of size. However, short of that, we believe certain amendments should be made to §751.4, as follows:

§751.4(e) Board of Directors
Under the proposed rule, a credit union's board of directors, or a committee thereof, would be required to approve incentive-based compensation arrangements for senior executive officers, including the amount of all awards and, at the time of vesting, payouts under such arrangements. In addition, the board, or a committee thereof, would be required to approve any material exceptions or adjustments to incentive-based compensation policies or arrangements for senior executive officers.

We believe board approval should be limited to the incentive-based compensation for the Chief Executive Officer. It is our opinion that the Chief Executive Officer should have approval authority over the incentive-based compensation arrangements for all other employees, including other executives.

§751.6 Reservation of Authority for Level 3 Credit Unions
Under proposed §751.6, NCUA may require a Level 3 credit union with average total consolidated assets greater than or equal to $10 billion and less than $50 billion to comply with some or all of the provisions applicable to larger Level 1 and Level 2 credit unions if NCUA determines that the Level 3 credit union's complexity of operations or compensation practices are consistent with those of a Level 1 or Level 2 credit union.

As stated above, we believe all credit unions should be exempted from the scope of the new rule. Short of narrowing the scope of the rule to exempt all credit unions, we believe §751.6 should be struck entirely as it would create uncertainty for small and mid-size credit unions and the possibility of subjectivity on the part of examiners. We believe any NCUA concerns could be sufficiently addressed within the examination and supervision process without including proposed §751.6 in the regulation.

In conclusion, we recommend NCUA and the other financial regulators withdraw the proposed rule on incentive-based compensation arrangements and develop guidance in lieu of a regulation, as expressly allowed under section 956(a) of the Dodd Frank Act. Furthermore, we recommend such guidance exempt all credit unions, since any requirements on credit unions would unnecessarily penalize credit unions that played no part in the financial crisis and also brings no benefit to the public or to the U.S. financial system. Short of that goal, we believe the proposed rule should be withdrawn until such time as NCUA can complete a cost-benefit analysis pursuant to Riegle Community Development and Regulatory Improvement Act of 1994. Upon completion of the cost-benefit analysis, should NCUA continue to desire to put forth a regulation, we believe a new proposed rule should be published which includes the details of the cost-benefit analysis along with the amendments we have recommended above, and with a new comment period that is sufficient in time to permit a thorough review by industry and the public.

Thank you for your review and thoughtful consideration of our comments.

Sincerely,

Rod Staatz, President/CEO