



June 24, 2019

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314
regcomments@ncua.gov

Re Compensation in Connection with Loans and Lines of Credit to Members.
RIN 3133-AE97

Dear Mr. Poliquin:

On behalf of the 2.2 million credit union members we represent, the Heartland Credit Union Association (HCUA) appreciates the opportunity to comment on NCUA's Compensation in Connection with Loans and Lines of Credit to Members.

Currently, section 701.21(c)(8) of the NCUA's regulations establishes a blanket prohibition on any commission, fee, or other compensation to any credit union official or employee, or an immediate family member of either, in connection with any loan made by their credit union. However, this section carves out the following exceptions to the blanket prohibition:

- A) Payment, by a federal credit union, of salary to employees;
- B) Payment, by a federal credit union, of an incentive or bonus to an employee based on the credit union's overall financial performance;
- C) Payment, by a federal credit union, of an incentive or bonus to an employee, other than a senior management employee, in connection with a loan or loans made by the credit union, provided that the board of directors establishes written policies and internal controls in connection with such incentive or bonus and monitors compliance with such policies and controls at least annually; and
- D) Receipt of compensation from a person outside a federal credit union by a volunteer official or non-senior-management employee of the credit union, or an immediate family member of a volunteer official or employee of the credit union, for a service performed outside the credit union.

We agree this regulation has generated confusion and is outdated, burdensome, and at odds with industry standards. Further, while we support the current structure of the regulation (*i.e.*, a broad prohibition with specific exceptions), we believe it can be updated to allow credit unions to offer competitive compensation plans without encouraging inappropriate risks, incentivizing bad loans, or negatively affecting safety and soundness.

In order to attract and retain top talent, it is critical that credit unions be able to offer compensation plans that are competitive with those offered by banks. As the NCUA assesses this regulation and considers ways to ensure such competitiveness, it should have an accurate picture of how credit union compensation compares to that of banks.

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In the past, credit unions have noted confusion about how to interpret the term “overall financial performance” in section 701.21(c)(8)(iii)(B). Credit unions have expressed uncertainty about whether the NCUA permits loan metrics, such as aggregate loan growth, as a factor in assessing overall financial performance. They also have asserted that the regulation is subject to varying interpretations and levels of enforcement across the NCUA’s regions. Given the degree of confusion and uncertainty this regulation has caused, we believe credit unions would benefit from either a formal definition or other clarification on exactly what the term entails. The current regulation provides some examples of what is and is not considered to be in line with lending, and there are several NCUA legal opinion letters over the years addressing incentive compensation. However, the overall lack of guidance in this area has led to confusion.

As the agency examines how to clarify “overall financial performance,” we expect it will consider the term as being an aggregate across all loan types to mitigate risk. However, we believe the NCUA should also consider an approach that limits the term to performance of a single type of loan (*e.g.*, “overall financial performance” of a senior vice president of a lending program would incorporate performance in a particular channel, which would be lending in this example). We believe concern with limiting the scope of the term can be properly addressed with sufficient risk mitigation.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Bradley D. Douglas". The signature is written in a cursive, flowing style.

Brad Douglas
President/CEO