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Subject: Sound Incentive Compensation Policies

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Comments:

Date: Nov 02, 2009

Proposal: Proposed Guidance on Sound Incentive Compensation Policies  
Document ID: OP-1374  
Document Version: 1  
Release Date: 10/22/2009  
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Docket # OP-1374 Dear Federal Reserve Board and Staff:

I have read over the proposed guidance put into the Federal Register October 27, 2009, relating to docket OP-1374. I take issue with a number of issues in the guidance, including vague definitions and assignment of responsibilities for certain aspects of the plan. The guidance is widely open to interpretation based upon the reader and easily twisted to just about any compensation level a Large Commercial Banking Organization(LCBO) desires. I see this passage as particularly troubling: "Banking organizations are responsible for ensuring that their incentive compensation agreements are consistent with principles described in this guidance and do not encourage excessive risk-taking or pose a threat to the safety and soundness of the organization." This particular passage is concerning because as the regulator for these LCBOs this is part of the the Federal Reserve's responsibility. While I agree it is important for these LCBOs to have some part in the process this statement is an abdication of responsibility. The guidance lacks specific time frame requirements and speaks in generalizations about deferrals of compensation. I believe multi-year averages should be a key component to incentive based-compensation and such incentive compensation should be payable when a concrete result proportionally attributable to a person's material actions should be considered vested. This idea would have prevented anybody from bothering with financial instruments that were destined to fail. Such rewards should not only be affirmative, if investments lose, they should subtract from other earnings. The document lacks sufficient prohibitions, requirements, and regulatory approvals of compensation plans. To be frank, you're telling the fox to guard the hen house. As you are aware the board of directors at most companies includes the chief executive and often some other senior "management" folks. It would help if the guidance would deal with conflict of interest issues more directly as well, such as the the

references to a compensation committee, if such a committee is made of up subordinates to the executives then it is natural to assume hidden, unknown, or loyalty based inflation will occur. The lack of contractual claw backs for these large organizations is something that needs to change as well. I appreciate that it is mentioned in this document, but I believe claw backs must be codified clearly in terms of duration as being industry standard and required by regulators in all compensation contracts with executives and material risk-takers. There is a degree to which compensation is outrageous and distasteful to the public, I believe that it is important to set orders of magnitude which require approvals, claw backs, and contractual control over compensation. While it may be reasonable to pay executives a reasonable salary of up to for example \$300,000, payment of \$3,000,000 is another issue which I believe should be subject to long term contractual and regulatory claw backs. Furthermore total compensation of say \$30,000,000 of any kind is beyond what should be allowed without explicit shareholder and regulatory approval. The Board of Directors at large companies is that they are often interlocking across industries. Thus its a good"ole boy's club as CEOs of other companies serve on boards, I believe this is harmful and promotes rapid abusive pay growth. All too often the practice of comparing techniques and compensation levels at other companies is used. Comparing the salary of a CEO from industry to industry is not a good idea. The salary of CEOs and executives at other industries is often inflated by loose controls, greed, weak governance, founder"s syndrome, and corruption between the board of directors/management. Board of Directors being the final say on compensation is not a good idea. I believe it is a good idea to give levels of consent to a board of directors, shareholders, and regulators. Modest amounts should be approved by a board of directors, excessive compensation should be determined and approved by regulators and shareholders. It is not enough to simply elect members to a board who then select compensation plans, the shareholders need to have a binding vote in executive compensation plans with the realistic ability to scale them back. The federal reserve board needs to put forward specific orders of magnitude that do not speak in technical generalities and vague language around this. It has become apparent that there is nothing inherently genius about executives at these LCBOs, in hind-sight, top executives are along for the ride and have little if anything, materially new to offer. Ken Lewis, the CEO of Bank of America did not invent any new technology, his organization acquired its way to be the largest bank which subsequently required corporate welfare to survive. Mr. Lewis earns somewhere around \$10-\$20 million depending on how it is calculated, in my judgment no person is worth this much. I realize that the banking industry argues that there is a need to retain top talent, however if these people were so smart why did they cause, significantly, such economic collapse? Most Americans understand that they should complete a list of tasks to be successful in their job, if they are successful they will keep their job. If they fail they lose their job or face disciplinary action. The banking industry is no different, the LCBOs pay a lot of money for what turns out to be individuals who add little, if any, actual value to their organizations. I find it offensive that we underwrite these LCBOs with government support who have such reckless interwoven personal self-interest from day to day. The former Merrill-Lynch CEO for example was more interested in his perks, his office, and his wealth to effectively run his organization. Executives are not in high demand within the market, this is a myth. Give someone a chance to run a major bank and they will take the job. The myth that an organization is run exclusively by the person at the top is false, they obviously have fleets of lawyers, compliance experts, financial consultants, and regulators to guide their organization"s path. Ken Lewis with his \$9M pay package in 2008 did not do the work of 90 people (100k salary each).

Realistically the whole banking industry is a commodity, and not a creative industry with the exception of deceiving the public into paying outrageous fees. Today's banking sector is more about customer lock-in, marketing, and less about basic loans, checking, and savings. However, we can change that by forcing out the profiteers with salary cram downs. Society would be much better off without such concentration of control and extractions from the financial companies. We all know that banks eat our lunch, for those of us who actually work in the real economy, their activity, speculation, and leveraged transactions bid up many goods and services that would otherwise not cost as much. For example, we know some major players played games to bid up multiple commodities including the price of oil during 2008. The overall effect is negative on the vast majority of citizens, and I believe it is not in our best interest to allow speculation and game playing. I reject the notion that the banking sector exists for the benefit of the consumer, as we learned they clearly exist to keep the public in debt, under their control, and to provide an income far exceeding what they actually earn. To create a sound banking sector we need to not only balance compensation to be relative to risk taking, we need to reduce margins of organizations and incomes of earners such that the sector does not operate to the detriment of the US Economy. As Americans come to understand how the banking industry works banks will undoubtedly face smarter consumers who will demand smarter banking. One of the keys to understanding banking is that you can and should take your business away from people who are running operations that are out to get you. All that we have seen out of Bank of America, Chase, Wells Fargo, and CITI is consolidation of their power to control the banking sector, especially in relation to credit cards and retail banking. As a result of their consolidation of power they have too much influence and extract a lot of value from the US Economy. As a whole the banking industry, with its outrageous fees, outrageous margins, and outrageous compensation act as a cancer on the success of the American economy as a whole. We need look no further then comparing the cost of funds at these organizations to their retail loan rates, fees and other charges that are paid by customers. I believe it is a great disservice when LCBOs use on the federal safety net, when I say this I not only mean FDIC intervention/insurance. I also mean when a LCBO shows up at the FED's discount window. This special privilege is akin to corporate welfare, many private citizens would like to borrow at these near zero interest rates today. They will always be lower then retail rates, when a LCBO or any banking organization needs to use the FED as a source of funds we should impose limitations on compensation, acquisitions, and risk-taking. I do not consider funds borrowed from the FED to be a standard operating procedure for banking enterprises. In fact, it should be a warning sign that a bank has operational problems that need to be resolved. The banking industry enjoys special rights, which are necessary for the safety of the system, the federal safety net extends beyond the FDIC to borrowing funds from the Federal Reserve. I believe it should be unlawful for banking enterprises to borrow money from the FED and use those funds for acquisitions, foreign lending, or other profit making activities. We can curtail the excesses of banks by linking use of the FED to measures of success. Specifically speaking to the copliance monitoring personnel, they should be protected by very tough whistle blower regulations by law, policy, and regulatory action. These people should be regularly polled by law enforcement, regulators, boards of directors, and executives for honest advise without any fear of retribution. In addition auditing and verification should be external to an organization especially when it deals with large risk-taking. We must take a step back and realize that these banks are too big to fail, so naturally they get extraordinary government assistance, because, it would

appear the FDIC couldn't handle the failure of Bank of America and many other LCBOs. Creating public anger, rapid creation of new money to provide assisting loans, all while the size and power of Bank of America only grew. Many would argue the source of our financial trouble is related to the consolidation of power, industry practices and controls into the hands of too few people and organizations. Throughout this document the complexity of organizations is addressed, while I appreciate the desire to scale regulation to the size of an organization, I also read between the lines that small banking enterprises do not have the risks, abuse, and room for error as we have in large banks. I believe it is beneficial to limit mergers and include language about system risks from banks being too big that they require special, separate regulations and privileges. CITIBank is a good example of a zombie bank that has too much government money, varied operations, and varied risk one has to ask, why not simplify? It would be really nice if we could have more competition and simplification in this industry, we have many other industries that operate well, even if they have their services provided by smaller providers. The guidance surrounding the case where examiners could discover insufficient plans, would be unnecessary if such plans be subject to regulatory approvals before implementation. This could prevent an organization from having contractual

troubles when inappropriate plan is created. In the background the author began by blaming the banking organizations for the financial crisis that started in 2007. While I agree with the authors of this guidance that the banks are the victims of their own stupidity, lack of controls, lack of restraint, realistic evaluation of risks, and outright greed: the banks are not entirely to blame. The Federal Reserve, itself is to blame for not restraining the industry from such gross risk-taking and excess compensation. There is plenty of blame to go around surrounding the circumstances but it must be acknowledged that the Federal Reserve should be considered complicit in inappropriate risk-taking, executive excesses, and other mistakes that led to the economic disaster by allowing banks to get away with so many questionable practices exposed by the collapse. The federal reserve needs to step up and take control of the banking industry or we will see more economic consequences as they find new creative ways to play games and make things worse. I hope that the FED will make the system operate for the benefit of the users of the system rather than for the enrichment of the elite who dominate the sector. It's time to slaughter the sacred cow and get back to basics. To Summarize: 1) The guidance is vague but is a good start, the length should be reduced, and clarify should be improved. 2) Regulatory Approvals should be in place instead of after-the-fact regulatory action. 3) Conflict of Interest Issues should be addressed. 4) Contractual claw backs, including regulatory claw back power should be defined. 5) Orders of magnitude for approvals should be defined and power to control compensation should be apportioned properly. 6) We should lower the industry's overall total cost of operation, size, and pay for the benefit of the larger US Economy. 7) Discourage and punish use, or potential use of the federal safety net. 8) Include stronger whistle blower provisions. 9) Do not provide non-uniform treatment depending on size, the process should be standardized and should provide no special rights or benefits to LCBOs. 10) Take Control of the banks, they should not control their regulators.