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July 22, 2016

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Board of Governors of the  
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Robert E. Feldman  
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Attention: Comments  
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**RE: Incentive-based Compensation Arrangements** (FRB Docket No. 1536 and RIN No. 7100 AE-50; OCC Docket ID OCC-2011-0001; SEC File No. S7-07-16; and FDIC RIN 3064-AD86) (81 FR 37670, Jun. 10, 2016)

Dear Sirs and Madams:

We appreciate the opportunity to provide comment on the above listed Agencies' proposed rule ("Joint Rules") regarding incentive-based compensation arrangements. On behalf of Mutual of Omaha and Mutual of Omaha Bank, we support the Agencies' efforts to interpret and implement the provisions of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, and previously submitted comments on the initial proposed rulemaking published in 2011.<sup>1</sup>

Under the Joint Rules, Mutual of Omaha and Mutual of Omaha bank would be designated as Level 3 Covered Institutions. While not subject to all of the enhanced requirements of institutions designated Level 1 and Level 2, we continue to have many of the concerns with the approach taken with Section 956 expressed in our original comments and, with the significant changes to the Joint Rules, additional concerns have emerged. While we support a framework for

<sup>1</sup> Mutual of Omaha comment letter dated May 31, 2011 in response to FRB Docket No. R-1410 and RIN No. 7100-AD69; OCC Docket No. OCC-2011-0001 and RIN No. 1557-AD39; SEC File No. S7-12-11; FHFA RIN No. 2590-AA42

on-going oversight of incentive-based compensation arrangements, we do not believe the prescriptive rules are appropriate, nor are they aligned with the underlying goals of streamlining effective regulation intended by *Dodd-Frank*. Moreover, as a Savings and Loan Holding Company, we have fundamental concerns with the way in which the Joint Rules apply to our insurance operations despite the apparent lack of consideration given to the unique nature and risks assumed by the insurance industry.

Mutual of Omaha is a member of the American Council of Life Insurers, Financial Services Roundtable, American Bankers Association, and the Insurance Thrift Coalition. We support and join in the comments submitted by those groups pertaining to this issue. In addition to the information offered by those groups, we put forth the following comments for your consideration:

### **The Joint Rules remain too Prescriptive, and Should Focus More on Principles-Based Regulation**

We join the vast majority of the industry that finds this proposal moves in a dangerous direction with regard to the amount of influence a regulator can have on the form and amount of compensation an entity can provide to its officers and employees. We understand and support the general need for tying compensation to risk, but believe the Joint Rules will be counterproductive for organizations that already employ robust risk management policies and procedures. We support the overarching policy of relating incentive compensation to risk and have already taken steps to respond to and comply with the Joint Agency 2010 Guidance on Incentive Compensation<sup>2</sup>, which requires a sound rationale based on the characteristics of the institution, appropriate policies and procedures, board oversight, and full disclosure of such compensation. However, the Joint Rules go far beyond reasonably relating incentive compensation to risk, and we believe the principles-based approach historically utilized should remain intact. Doing so will not prevent the Agencies from addressing problematic incentive-based compensation arrangements, but will prevent the imposition of a number of overreaching and inappropriate rules.

### **Vague and Inconsistent Definitions Create Potentially Conflicting Requirements**

Under the Joint Rules, we may be subject to overlapping rules within our corporate structure. There is the possibility that our subsidiaries will have different reporting requirements and forms than our holding company, or even from other subsidiaries within the organization. Therefore, we support the proposition that regulation and reporting take place at a single level alone, rather than entity-by-entity. To accomplish this, each covered entity within an organization should be responsible for submitting its required information to the parent company/holding company level (when the holding company is itself a covered entity), and the data is reported to the primary regulator. Doing so is more streamlined and consistent and still achieves the objectives of the requirement without being overly burdensome.

We would refer to the specific recommendations and justifications outlined by the FSR, ABA and ACLI for proposed revisions to the definitions of: compensation, incentive-based

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<sup>2</sup> Guidance on Sound Incentive Compensation Policies, Office of the Comptroller of the Currency [Docket ID OCC-2010-0013] Federal Reserve System [Docket No. OP-1374] Office of Thrift Supervision [Docket ID OTS-2010-0020]

compensation, covered financial institution, board of directors, covered person, significant risk taker, and senior executive officer. However, regardless of how these definitions are determined, we believe consensus language among the Agencies is integral to implementing these rules consistently.

### **Disconnect Between Pay and Performance**

Mutual of Omaha provides insurance, income and asset protection to millions of Americans. We operate principally through the business of insurance and complementary asset management and brokerage. Mutual of Omaha Bank prides itself on being a customer-focused community bank, and our company provides valuable services to our policyholders, agents and banking customers by offering convenience and reducing costs. Our ability to continue to serve our customers and community is impacted in many ways by our ability to attract and retain good employees. The proposed rule may steer institutions toward more fixed compensation, while the work force is increasingly more focused on incentive- or performance- based compensation arrangements that align with company and individual results. We ask that you keep this in mind as you formulate final rules.

### **Additional Comments**

We appreciate the approximately eighteen month transition period provided by the Joint Rules that would allow institutions time to make necessary adjustments to its programs and does not apply to any incentive-based compensation plan with a performance period that begins before the compliance date. However, we continue to believe there are simpler and less burdensome methods of reporting, and reiterate our belief that the current practice under the 2010 Guidance allows customization in identifying the individuals and groups within each firm and their relation to the overall risk, as well as providing an opportunity for management to demonstrate to supervisors that their compensation plans are consistent with that risk profile. Principles-based compensation plans that provide appropriate rewards for success, as well as accountability for failures, satisfy the mandate of Section 956 and the broader principles of risk governance, and are, in turn, beneficial for all stakeholders.

Once again, we appreciate the opportunity to comment on this very important issue. Thank you for your consideration.

Respectfully submitted,



David A. Diamond  
EVP, CFO & Treasurer  
Mutual of Omaha