July 22, 2016

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Attention: Legislative and Regulatory Activities Division

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Board of Governors of the Federal Reserve System
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Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
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Attention: Comments

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th Street SW, Eighth Floor
Washington, DC 20219
Attention: Comments/RIN 2590-AA42

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

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Notice of Proposed Rulemaking on Incentive-Based Compensation Arrangements (Treasury Department Docket No. OCC-2011-0001; Federal Reserve System Docket No. R-1536 and RIN No. 7100 AE-50; FDIC RIN No. 3064-AD86; FHFA RIN No. 2590-AA42; NCUA RIN 3133-AE48; SEC File Number S7-07-16 and RIN No. 3235-AL06)[1]

Ladies and Gentlemen:

The undersigned organizations and institutions are dedicated to fostering entrepreneurship, preserving the principles of free enterprise, and promoting the competitiveness and growth of the American economy. Our organizations represent a wide spectrum of diverse financial institutions and employees that would be covered by this rule as proposed, including broker-dealers, investment advisers, and bankers.

[1] Incentive-Based Compensation Arrangements, 81 Fed. Reg. 37,670 (proposed June 10, 2016) (hereinafter *Reproposal*).

We welcome the opportunity to comment on the re-proposed rule on incentive-based compensation (the "Reproposal").[2]

We have significant concerns with the Agencies' process deficiencies associated with the Reproposal, such as the serial manner in which the Agencies adopted a rule that is required to be "jointly prescribed" and the failure of some agencies to publish a statutorily required economic analysis of the Reproposal.[3] Substantively, our concerns with the Reproposal, which are discussed in greater detail herein, include:

- The Reproposal strays beyond the bounds of the Agencies' limited statutory authority;
- The Agencies should adhere to a principles-based approach toward regulating compensation incentives that encourage excessive risk-taking and jettison the Reproposal's highly prescriptive, one-size-fits-all approach;
- The Reproposal's bright-line "Significant Risk-Taker" definition fails to meet Section 956's regulatory objectives;
- The Reproposal would create artificial talent acquisition and retention arbitrage among geographies, industries, and firms of different sizes;
- The Reproposal's deferral rules are unnecessarily prescriptive and onerous;

[2] We also draw the Agencies' attention to the letters filed by many of the undersigned organizations with respect to the Reproposal, which may address additional issues of concern to them and which may provide additional suggestions regarding how they believe the Agencies could address certain issues raised by the Reproposal.
[3] The term "Agencies" refers collectively to the Securities and Exchange Commission ("SEC"), the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System (the "Federal Reserve"), the Federal Housing Finance Agency ("FHFA"), the Federal Deposit Insurance Corporation ("FDIC"), and the National Credit Union Administration ("NCUA").

- The Agencies should pare back the downward adjustment, forfeiture, and clawback rules;

- The use of additional restrictions on incentive-based compensation plans is unnecessary and should not be required; and

- The Reproposal distracts boards of directors and requires excessive recordkeeping.

INTRODUCTION

Human capital is the cornerstone of a firm's growth and success. For decades, financial services firms have competed to attract and retain professional, talented individuals using incentive-based compensation arrangements that encourage prudent risk-taking, reward success, and discourage failure. Prudent risk-taking has resulted in the financing of some of the world's most successful businesses, creating millions of jobs for the American economy and improving our collective welfare. In short, risk is a critical ingredient in the recipe for economic growth.

Despite the importance of prudent risk-taking in our free enterprise economy, Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") requires the Agencies to jointly prescribe regulations or guidelines to regulate incentive-based compensation plans in a manner that curbs "excessive" pay and prevents "material financial loss" to the covered business.[4] The Agencies first proposed a compensation rule in 2011; it was never finalized, and since then the rulemaking process has lain dormant.[5] Now, five years later, the Agencies have picked up their pens once more and drafted the Reproposal. Unfortunately, the Reproposal suffers from a number of defects, the most significant of which is that it

[4] Dodd-Frank Wall Street Reform and Consumer Protection Act § 956, 12 U.S.C. 5641 (2014).
[5] Incentive-Based Compensation Arrangements, 76 Fed. Reg. 21,170 (proposed Apr. 14, 2011).

shirks a focus on risk for a framework which treats all incentive compensation plans and participants the same. The result is an enormously overreaching requirement that not only lacks the ability to distinguish between prudent business risks and inappropriate risk-taking, but that also will stifle innovation and put covered institutions at a distinct and severe disadvantage in the competition for top talent.

The stakes for Section 956 rulemaking are high. The Agencies should not lose sight of the possibility that the rules contemplated by Section 956 could *themselves* contribute to an erosion of financial stability if they are too inflexible, cumbersome, and homogeneous to allow the diverse businesses covered by the rule to attract the talented human resources they need to achieve success.

It is difficult to overstate the significance of any rule that places artificial, non-market-based restraints on the fiercely competitive global market for the services of talented professionals. Even the Reproposal acknowledges that "incentive-based compensation arrangements are critical tools in the management of financial institutions."[6] It is therefore essential that the Agencies charged with writing compensation rules (or any corporate governance rules, for that matter) comprehensively study the issues as they collect data and analyze the likely effects of their regulations on this highly competitive market.

The likely result of a failure to revisit much of the structure of the Reproposal is that professionals may flee covered businesses in favor of others or seek opportunities at financial services firms which are not covered by Section 956 or outside the industry altogether. Covered firms are likely to have to make substantial and unnecessary changes they would otherwise not to accommodate for the talent and recruitment handicap which has been placed on them.

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[6] *Reproposal*, *supra* note 1, at 37,673.

It is therefore imperative that the Agencies proceed methodically and with great caution as they strive to get this rule right. The significance of the rule already has prompted many commenters to ask the Agencies that stakeholders and the public be given more time to prepare thoughtful, substantive comments for consideration. After all, the Reproposal would prescribe requirements for *every* incentive-based compensation plan for *every* employee at *every* covered institution with $1 billion or more in assets—thereby impacting millions of American workers. The commenters further suggested that a longer comment period was appropriate in light of the Agencies' disjointed adoption of their respective versions of the Reproposal, which resulted in some Agencies' providing a comment period of less than 90 days.[7] And still other commenters requested that the Agencies suspend the comment window until the OCC, FDIC, and Federal Reserve (the "Federal Banking Agencies") satisfy their obligation to publish the cost-benefit analysis required under the Riegle Community Development and Regulatory Improvement Act of 1994 and applicable executive orders.[8]

Unfortunately, those simple requests for more time and greater transparency have apparently been rejected. We regret that the Agencies' sudden rush to resuscitate this rulemaking (which has lain dormant since 2011) has impeded the ability of stakeholders and the public to fully assess its likely impact on American businesses and workers and participate meaningfully in the public dialogue that the Administrative Procedure Act was designed to foster. The result is a Reproposal that would smother the kind of prudent risk-taking our economy needs under a needlessly large regulatory blanket.

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[7] We note that the SEC—the only agency to include economic analysis in the text of its proposal despite statutory and Executive Order requirements that other Agencies do so as well—was the *last* agency to adopt the Reproposal, meaning the public was given the shortest amount of time to review the longest version thereof.

[8] 12 U.S.C. § 4802(a).

<u>DISCUSSION</u>

I. The Reproposal strays beyond the bounds of the Agencies' limited statutory authority.

While Section 956 requires the Agencies to prescribe rules or regulations on incentive-based compensation arrangements, the Agencies should do so with a greater recognition that the authority given to them under the statute is limited and specific. The statute permits the Agencies to *prohibit* incentive-based compensation arrangements that encourage two types of "inappropriate" risks. The Reproposal, however, is largely styled as a rule that would affirmatively require all covered financial institutions to incorporate specific, universal requirements into their compensation arrangements. It is one thing for the Agencies to tell businesses that their compensation arrangements must discourage excessive risk-taking; it is quite another for a regulator to enter the board rooms of thousands of specific businesses and tell each unique firm what its risks are and how to manage them. To claim that the Agencies possess the positive authority to require certain terms in compensation arrangements because they logically could forbid all plans that lack those required terms defies the legislative intent of the statute. Congress clearly designed Section 956 to confer the limited power to prohibit plan features that encourage excessive risk. Congress knows how to authorize regulators to prescribe positive standard-setting rules when it wants to, as it did in many other sections of the Dodd-Frank Act.

II. The Agencies should adhere to a principles-based approach toward regulating compensation incentives that encourage excessive risk-taking and jettison the Reproposal's highly prescriptive, one-size-fits-all approach.

The Agencies should prefer a principles-based approach to their rulemaking under Section 956 because it gives regulators and covered entities the flexibility they need to meet their respective regulatory objectives without the negative economic

consequences that would result when, figuratively speaking, a "round" business is forced into a "square" regulatory hole. In addition, a principles-based approach furthers the longstanding policy benefits of allowing dynamic compensation changes as the market, industry, economy, and risk intelligence evolve.

Three of the six Agencies already have experience with a principles-based approach to regulating compensation arrangements. Presently, there are numerous incentive-based compensation regulations to which financial institutions are required to adhere—a fact Congress acknowledged in Section 956(c), which commands the Agencies to give some deference to the compensation standards established under the Federal Deposit Insurance Act. Those standards, as well as the OCC, FDIC, and Federal Reserve's very own 2010 final interagency *Guidance on Sound Incentive Compensation Policies* (the "2010 Guidance"), take a principles-based approach to regulating covered institutions. Both of those documents have served their statutory purposes well.[9] Covered institutions subject to the 2010 Guidance have worked extensively with their regulators to develop effective risk mitigation strategies while working to identify material risk-takers. This rapport with regulators is well established and the end risk-mitigation product is the result of effective collaboration and negotiations. Thus, as an initial matter, we have serious questions about what has prompted at least the OCC, FDIC, and Federal Reserve to support the Reproposal, which in its current form breaks sharply from those agencies' statutory authority and past precedent and, in some ways, is plainly incompatible with it.

If a principles-based approach has worked well for the diversity of firms covered by existing guidelines, the Agencies, recognizing that the Reproposal regulates an even *more* diverse group of firms than presently are covered, should favor a principles-based approach all the more. Yet under the Reproposal, the Agencies would regulate virtually the entire financial services industry's compensation with

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[9] *See* Guidance on Sound Incentive Compensation Policies, 75 Fed. Reg. 36,396 *et seq.* (final guidance issued June 25, 2010) (hereinafter *2010 Guidance*).

bright-line rules, creating a "risk-mitigation" framework that does not actually consider risk and that fails to appropriately accommodate for the fundamental differences in the industries and businesses subject to the rule. The Reproposal's rules would potentially regulate the compensation of broker-dealers, investment advisers, bankers, and others in exactly the same way. It is almost by logical necessity that a standard set of rules applied across such diverse businesses will simultaneously be both under- and over-inclusive, and, consequently, simultaneously discourage employees' productive activities that pose almost no risk of material financial loss and encourage employees' activities that could subject the firm to such losses.

Highly prescriptive regulations are more appropriate when the scope of the regulated industry, activity, or person is very narrow or when the economic benefits of ease of compliance (such as checking off "yes" or "no" on a questionnaire) outweighs the costs that might be associated with such regulation. But when a group of six regulators seeks to regulate an industry as diverse and complex as the American financial services industry in unison, a prescriptive approach seriously threatens to impose huge costs on firms and their employees, customers, and shareholders, and to do so with a significant measure of imprecision that calls into question whether the regulation will actually have the undesired effect of freezing markets rather than improving them. In contrast, a principles-based or guideline approach, which clearly is permissible under Section 956, gives each regulator the flexibility and tools it needs to tailor a common set of rules of the road for a particular industry in light of its unique risks, compensation culture, complexity, and other appropriate characteristics.[10] A cop on the beat is more effective when she knows the people and geography of the neighborhood she polices. A principles-based approach will also allow directors, investors, management, and regulators to work together to develop a compensation system that best fits the long-term needs of a firm.

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[10] 12 U.S.C. § 5641(b) ("[the Agencies] shall jointly prescribe regulations *or guidelines* that prohibit any types of incentive-based payment arrangement, or any feature of any such arrangement, that the [Agencies] determine encourages inappropriate risks by covered financial institutions . . .") (emphasis added).

Moreover, the Agencies should (and under applicable cost-benefit statutes, must) consider the net benefit of any rulemaking under Section 956, taking into account the impact of other regulations on the financial services industry designed to prevent material financial loss. Since enactment of the Dodd-Frank Act and the United States' adoption of Basel III, many of the firms whose compensation arrangements would be covered by the Reproposal have increased their capital and liquidity buffers, undergone annual stress tests by regulators, prepared and submitted "living wills" to regulators, and of course have implemented and abided by the 2010 interagency guidance. Each of these regulatory measures has ostensibly made the risk of material financial loss at a firm less likely, either because losses themselves are less likely or because the probable materiality of any loss (as a result of a higher capital buffer) is now diminished. A principles-based approach would allow the Agencies and covered firms to take into account the impact of these regulations on reducing risk of material loss as a result of inappropriate risk-taking at each particular firm as management shapes compensation programs.

III. The Reproposal's bright-line "Significant Risk-Taker" definition fails to meet Section 956's regulatory objectives.

As described above, we support a principles-based approach to the Agencies' implementation of Section 956. One of the specific drawbacks of a prescriptive approach is that it uses bright lines. While perhaps useful from an enforcement or supervision standpoint, firm thresholds and cutoffs necessarily capture some activity that would not be captured in a principles-based framework and simultaneously misses some activity regulators probably would want within the regulatory regime. Poor regulatory efficiency causes negative externalities in regulated markets.

Despite this reality, the Reproposal introduces the concept of "significant risk-taker" and uses a bright-line test to decide whose compensation would be regulated and whose would not. The structure of the bright-line test operates off an assumption that equates pay magnitude with risk-taking activities. Further, by failing

to focus on risk, the test fundamentally fails to identify some non-senior executive officers who have the potential to subject a firm to material financial harm. For example, the Reproposal would regulate the compensation plans of individuals whose job description is to mitigate risk, like those in the legal department or a control function, while potentially missing other risk takers who, on an individual basis, meet neither the relative compensation test nor the exposure test but who collectively, as a business unit, have the authority to expose more than 0.5% of the firm's capital. Further, the bright-line tests used in the rule will result in the reality that two individuals, doing the exact same job for the exact same pay but at two different firms, could be treated differently—one labeled a "significant risk taker," the other not. The obvious shortcomings of the bright-line approach should counsel the Agencies to abandon it in favor of a more flexible framework in which businesses identify the material risk takers in their respective organizations.

Covered institutions subject to the 2010 Guidance have worked cooperatively with their respective regulators to identify material risk takers at their organizations. This approach has worked well, in large part because it accommodates diversity among institutions' business lines, sizes, and other unique characteristics. It also has fostered a cooperative approach to identifying and mitigating risk between business and regulators. We believe the Agencies who presently administer this guidance should further develop and publish their rationale for this change, which will be costly to implement and which will yield little if any marginal decrease in risk of material loss.

If the Agencies do elect to implement a bright-line standard to determine who is a significant risk-taker, we recommend that they permit the use of an objective standard other than compensation percentiles. We believe that, depending on the organization, compensation percentiles may be poor predictors of risk-taking activities. Moreover, some organizations may conclude that the use of compensation percentile tests like the proposed 5% and 2% tests are impracticable to administer because employees may not know from one year to the next whether their incentive

compensation will be covered. This uncertainty could have a negative impact on the ability of covered firms to attract and retain talent.[11]

IV. The Reproposal would create artificial talent acquisition and retention arbitrage among geographies, industries, and firms of different sizes.

American businesses compete fiercely on a daily basis to attract and retain talented individuals to produce goods and services, serve customers, and grow the business. One of the primary methods of attracting top talent is through an incentive-based compensation arrangement whereby the employee gets paid according to his or her successes.

a. The Reproposal's "levels" will create non-market-based competition for talent within an industry based on firm size.

The Reproposal's use of "levels" would create artificial incentives for individuals within the same industry to seek employment at the firm where they are least likely to be a significant risk taker. For example, an individual who is a significant risk taker by virtue of her compensation at a Level 2 firm (under the relative compensation test) may be incentivized to seek employment at a Level 1 firm in the same industry if her compensation arrangement at the larger firm would put her below the 5% cut-off. Conversely, an individual at a Level 1 firm who is just within the 5% cutoff may seek opportunities at a Level 2 institution where his compensation will put him just outside of the 2% cutoff. These incentives would not be based in market competition but solely in regulatory policy. The Agencies should consider whether the Reproposal—especially its use of bright line rules to divide institutions into "levels"—is likely to cause arbitrage among different sized firms' respective abilities to attract and retain talent.

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[11] Consistent with our discussion generally, any final regulation should be flexible enough to permit an organization that believes a bright-line test including compensation percentiles is appropriate for it to adopt such a test after consultation with its regulator.

b. Talent and innovation may flee covered institutions for non-covered institutions.

The Agencies should also closely consider whether the type of talent incentive-based compensation arrangements are designed to attract will be likely to leave covered industries in favor of non-covered industries. Will a technology expert hired by a financial institution to oversee development of a new customer-friendly mobile interface leave the bank in favor of a pure tech company so as not to be subject to deferral and clawback? While it is true that the respective jurisdictional scope of each of the Agencies is limited, the Agencies should consider the impact of the Reproposal on the broader economy, including whether it is likely to cause artificial disparities in different industries' ability to attract and retain talent, particularly the type of talent that is best able to identify, mitigate and manage risk (e.g., control functions). Of real concern is the distinct possibility that Section 956 actually weakens the financial stability of the economy by impeding the ability of firms to attract and retain top talent.

c. The Reproposal may cause "brain drain" from the United States and make our economy less competitive.

The American economy is the strongest, most diverse, and most innovative economy in the world. We benefit from having well-regulated capital markets as the foundation of our free enterprise system. Our economy is built to *encourage* risk-taking, entrepreneurship, and opportunity. That is why many foreign nationals, especially those with backgrounds in the STEM fields, seek attractive employment opportunities in the United States. Other nations' economies have different ontologies and social purposes and thus are regulated quite differently.

The Agencies should consider the impact of the Reproposal on the competitiveness of American businesses vis-à-vis their international competitors. The Agencies should start their analysis from the baseline of the status quo and develop their rule based on how the Reproposal is likely to shift competitive advantages and disadvantages on a global basis, not on whether the Reproposal is likely to bring our

regulatory framework "more in line" with other countries with different economic cultures.

V. The Reproposal's deferral rules are unnecessarily prescriptive and onerous.

The Reproposal would require Level 1 and Level 2 covered institutions to defer specific percentages of a covered employee's incentive-based compensation for a minimum specified number of years. The stated purpose of this rule is to appropriately balance risk and reward—a function traditionally performed not by government but by firm management, boards of directors, and shareholders.

The deferral percentages and periods in the Reproposal are onerous and unsupported by any quantitative analysis. Any such prescriptions should be established only after a careful review of whether they will meaningfully contribute to risk mitigation. The Agencies have proposed a four-year deferral of 60% of a senior executive officer's incentive-based compensation and 50% of a significant risk taker's incentive-based compensation at a Level 1 institution; they have proposed slightly less burdensome prescriptions to apply to Level 2 institutions. Nowhere in the Reproposal do the Agencies explain where these percentages come from, why they are different for Level 1 and Level 2 institutions, or, most importantly, why they—and not alternative percentages—most appropriately balance risk and reward. Neither do the Agencies appear to consider how these rules would impact the personal liquidity of the employees that would be subject to them. These strict requirements for all covered employees represent a departure from the flexibility of the 2010 Guidance, which specifically acknowledges that "[d]eferral of a substantial portion of an employee's incentive compensation *may not be workable* for employees at lower pay scales because of their more limited financial resources."[12]

[12] *2010 Guidance*, *supra* note 9, at 36,410.

Finally, the Agencies should allow events beyond death and disability to permit acceleration of deferred compensation. These events should include: entering government service, retirement, demonstrable financial hardship, acceleration to meet tax obligations associated with deferred compensation, change of control, and involuntary termination of employment without cause.

VI. The Agencies should pare back the downward adjustment, forfeiture, and clawback proposals.

Under the Reproposal, some employees would have to wait 11 or 12 years to have the confidence that the dollar they earned today belongs to them. That is because in addition to prescribing deferral rules, the Reproposal would also require Level 1 and Level 2 covered institutions to use downward adjustment, forfeiture, and clawback provisions to reduce incentive-based compensation *ex post* for certain events. Naturally, downward adjustment and forfeiture features of compensation plans will deter employees because they cause unease. While we believe it is appropriate for compensation plans to use a broad range of tools to promote an institution's long-term goals, we believe that the Reproposal's downward adjustment and forfeiture provisions should have a relatively short look-back period. We further submit that the triggers for downward adjustment or forfeiture should be limited to intentional acts that have a tight nexus to the events that yielded the compensation.

The Reproposal would further require Level 1 and Level 2 covered institutions to include provisions that permit the institution to claw back all vested incentive-based compensation for a period of seven years after the vesting date. As an initial matter, this period is unnecessarily long: an employee will not have certainty about the ownership of deferred compensation subject to clawback for more than a decade. This is much longer than a traditional business cycle, and much longer than is likely necessary to detect the manifestations of the type of conduct the rule is designed to discourage. At a minimum, the clawback period should run from the date the compensation is granted, not when it vests. Moreover, we believe the Agencies

should further describe what specific, unique benefits the clawback, deferral, and downward adjustment/forfeiture provisions in the Reproposal would provide, especially, for some institutions, on top of current practice and regulatory guidance.

VII. The use of additional restrictions on incentive-based compensation plans is unnecessary and should not be required.

On top of the required provisions that allow a company to take pay away from covered individuals, the Reproposal would cap the amount of incentive-based compensation that may be paid to senior executive officers and significant risk takers. While the Agencies state that the point of this proposal is to curb the use of excessive "leverage" in designing incentive-based plans, we fail to see what marginal benefit a cap on incentive-based pay would provide. The leverage of many financial services firms is already capped at the institution level. We believe that the Reproposal's arbitrary caps are ineffective, particularly in light of the extensive deferral, forfeiture, adjustment, and clawback requirements otherwise included in the Reproposal. We further question how the Agencies arrived at their conclusion that the percentage caps used in the Reproposal—125% for senior executive officers and 150% for significant risk-takers—are consistent with industry practice.

Neither do we see any marginal benefit obtained in prohibiting covered institutions from using volume-driven or relative performance measures alone to determine compensation. There should be a presumption in favor of a firm's ability to use whatever mix of benchmarks it believes are appropriate for its industry and size, and for different types of employees. Relative performance, even as a sole benchmark, is generally accepted (and endorsed by a prominent proxy advisory firm) in measuring an employee's success among his or her peers. Similarly, compensation plans that use volume-driven measures of success as the sole benchmark may be appropriate in some circumstances. Nevertheless, the Reproposal would prohibit such compensation plans for *all* employees (not just senior executive officers and significant risk takers) at Level 1 and Level 2 institutions. The Agencies should revise

these additional restrictions on incentive-based compensation to allow businesses to use flexible approaches that fit their respective industry norms.

VIII. The Reproposal distracts boards of directors and requires excessive recordkeeping.

The Agencies have proposed not only to regulate the specific content of incentive-based compensation plans with a slate of one-size-fits-all rules but also who at a covered institution must be involved in the plan-writing process. As a general matter, we support strong corporate governance rules that respect the bifurcated duties of the board of directors and management and that promote the long-term interests of the shareholders who own the firm. But the Reproposal would require the board of directors or a committee thereof to expressly approve the terms of every incentive based compensation plan for senior executive officers—a group that is unnecessarily large and diverse under the definitions in the Reproposal and will include individuals that cannot put the firm at risk of material financial loss. This task will unnecessarily consume an enormous amount of the board's time and resources and divert its attention from other more pressing matters facing the business. In effect, this provision turns the board into management.

The Reproposal would also force *all* covered institutions to create and maintain records on the structure of every incentive-based compensation plan for a period of at least seven years. First, that requirement seems unnecessarily burdensome given the breadth and diversity of the plans that would be covered. Second, if the Agencies insist on this provision, we recommend that it be tailored to cover only those employees who are subject to clawback (we infer from the seven-year time periods of the clawback rule and record-keeping rule that the record-keeping is for the purpose of enforcing the clawback rule) and exclude broad-based incentive compensation plans (e.g., organization-wide plans) and profit-sharing plans, which generally lack any performance measures that could encourage inappropriate risk-taking by the individual.

Finally, we welcome the Agencies' proposed change from the 2011 proposal, which would have required institutions to provide annual reports to their respective regulator(s) concerning incentive-based compensation plans, to the more sensible approach of providing them upon request to the applicable regulator.

CONCLUSION

Thank you for your consideration of these views, issues, and comments, as well as any separate comments submitted by each of our organizations. We stand ready to discuss them with you in greater detail.

Respectfully submitted,

American Bankers Association
Center on Executive Compensation
Financial Services Roundtable
Securities Industry and Financial Markets Association
The Clearing House
The U.S. Chamber of Commerce