May 31, 2011

SENT VIA EMAIL

Jennifer J. Johnson
Secretary, Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Elizabeth M. Murphy
Secretary, Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 2-3
Washington, DC 20219

Robert E. Feldman, Executive Secretary
Attention: Comments, Federal Deposit Insurance
550 17th Street, NW
Washington, DC 20429

Re: Comments on Interagency Proposed Rule on Incentive-Based Compensation Arrangements (Implementing Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act)

Ladies and Gentlemen:

The PNC Financial Services Group, Inc. ("PNC") appreciates the opportunity to comment on the rules (the "Proposed Rule") proposed jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission and the Federal Housing Finance Agency (collectively, the "Agencies") to implement Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

We have for many years believed strongly in our moderate risk philosophy. As part of this philosophy, we have sought to adhere to many of the principles set forth in the Proposed Rule in our incentive compensation programs, desiring to incentivize productive behaviors and not to incentivize those that may be detrimental. In particular, over the last several years, both as part of the regulatory supervision process and on our own, we have been working to improve the quality of our incentive compensation programs, the alignment of the incentives reflected in those programs with our corporate goals and philosophy, and the balance between the rewards provided our employees and the risks taken. We recognize that this process will need to be on-going as business conditions change, new products and services are developed, and experience is gained as to how incentives and behavior are correlated.

That said, we believe that there are several respects in which the Proposed Rule could either be enhanced or clarified. In this letter, we will employ the same convention used in the joint Agency release to refer to

sections that are common in each Agency's version of the Proposed Rule. Terms defined in the Proposed Rule are used below with the same definitions.

Required Reporting

With respect to the provisions of §____.4, relating to the reports required under section 956(a)(1) of the Dodd-Frank Act, the Agencies asked for comment as to whether they should consider modifying the Proposed Rule to require updating of the required incentive-based compensation disclosure filed with the relevant Agency if material changes to incentive-based compensation plans occur. We encourage the Agencies not to add a requirement of additional disclosure between the annual reporting cycles.

We believe that both the review of incentive compensation programs by the Agencies and the reporting and analysis of them by the financial institutions will be best done looking at programs as a whole. A change in the middle of the year should not be looked at in a vacuum but rather as part of the financial institution's entire incentive compensation program and related risk management processes and controls. It will also often be the case that institutions may be changing other related aspects of their compensation programs but adopt changes to one element of their incentive compensation programs first, making an analysis of the incentive compensation program necessarily incomplete at that time. Annual oversight of the total program reflecting any interim changes will allow for a comprehensive review of all related compensation programs and how they fit within the risks that the institution is taking or trying to avoid taking.

In addition, we believe that the comprehensive annual reporting described in the proposed rule, combined with the Agencies' existing supervisory programs, will provide sufficient opportunity for the Agencies to oversee the incentive compensation practices at covered financial institutions. On the other hand, requiring updating throughout the year will increase the administrative burden on covered financial institutions, which, in some cases, may be reporting to more than one Agency regarding the same actions with somewhat different reporting requirements and different employees covered.

As a related point, the Proposed Rule is not specific as to the point in the year when the annual reports will be required. PNC generally manages its compensation programs on an annual cycle, which we believe is common throughout the industry. Given that it is important that the reporting be current and comprehensive, we believe that its timing should be coordinated with other related compensation practices and activities. There will be somewhat of an overlap between reporting requirements in annual meeting proxy statements filed with the SEC and some of the information in the required reports under §____.4 of the Proposed Rule, which would suggest aligning the two. This alignment would also properly align the decision making as to executive compensation and other forms of compensation that are driven by annual performance with the overall reporting on the structure of the programs.

Prohibition on Compensation That Encourages Inappropriate Risk--Excessive Compensation

Section ____.5(a)(1) of the Proposed Rule prohibits incentive-based compensation arrangements that encourage inappropriate risk by providing a covered person with excessive compensation. We have several suggestions for enhancing this prohibition that we do not believe will impair its efficacy in practice.

First, the provision itself and the standards set forth in §____.5(a)(2) exclusively refer to compensation provided to a "covered person" in the singular. This suggests that financial institutions will need to review each covered person's incentive-based compensation and, as written, total compensation (see §__.5(a)(2)(i)) on an individual basis to determine whether or not each individual covered person's incentive-based compensation provides "excessive compensation." As "covered person" is defined as including all employees of a covered financial institution, assuring compliance would require oversight of the compensation of each individual that receives incentive compensation. At an institution the size of PNC, this would involve reviewing total compensation provided to thousands, if not tens of thousands, of employees to make sure that the incentive-based compensation of each meets the standards for not receiving excessive compensation. Often, this will require gathering data as to comparability that is not currently available in the marketplace in a reliable form. This would be true despite the fact that only a very small percentage of the total workforce receiving incentive compensation is in a position at an individual level to expose PNC to material risk.

We believe the final rule should allow financial institutions to review compensation on a plan or group basis, except for the executive officers and others identified under §____.5(a)(3)(ii) as individually having the ability to expose the institution to substantial losses. This would be more consistent with the approach taken with respect to the material financial loss prohibition in §____.5(b). It would also recognize that, other than as related to executive officers and other high-risk individuals, the risk posed by poorly constructed incentive compensation programs is generated by group responses to group incentives, not by an occasional employee who may be excessively compensated on a one-off basis under an otherwise well-constructed program.

Second, we believe that §____.5(a)(2) should be modified to make clear that an incentive-based compensation arrangement may be deemed "excessive" only if such compensation "encourages inappropriate risks" as specified in §____.5(a)(1). Section 956 is focused on incentive-based compensation that puts institutions at risk through its structure or amount; by its terms, Section 956 does not limit incentive-based compensation merely on the grounds that it is excessive and does not limit compensation that is not incentive-based. Thus, a nominal incentive-based compensation award that is not likely to encourage excessive risk should not be prohibited under §____.5(a) even if it is part of an overall compensation package that, in the aggregate, may be viewed as being outsized due to, for example, overly generous health and welfare benefits. Only the incentive-based component of a compensation package may be prohibited as excessive if the relevant Agency determines that it encourages excessive risk.

Third, one of the factors in the evaluation as to whether compensation is excessive in the Proposed Rule is "[c]omparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the covered financial institution's operations and assets" (§____.5(a)(2)(iv)). We endorse the concept that a key factor in determining whether compensation provided is excessive is compensation provided in the competitive marketplace. We are concerned, however, that the language used in the Proposed Rule will unduly limit the ability of covered financial institutions to provide competitive compensation packages to their employees. Depending to some extent on the nature of particular positions, PNC and other financial institutions do not just recruit from and compete for employees with other financial institutions of comparable size, location and complexity. The employee marketplace, particularly

for specialized talent, often includes non-banking firms or smaller, boutique organizations. On the other hand, when competing with other financial institutions for talent, particularly the more sophisticated talent that is more directly relevant to some of the risks we take, we are often competing primarily with organizations that are much larger and more complex than PNC. Looked at in the aggregate, financial institutions of comparable size, complexity and location are the appropriate comparative group. But each position within the organization will be competitive with its own group, which may or may not just be the other banks that look like us.

Consider the following situations where we might have identified the best possible candidate for an open position at PNC but where the candidate either currently has a position or has an opportunity for a position at another company. In each case, we might not need to, want to or even be able to match precisely the compensation package available at the other company, but each candidate will take into account as at least an important factor the financial terms of our offer in comparison to those presented by the alternative opportunity. First, we could be seeking to hire a senior corporate loan officer in competition with the US-based operations of a much larger Japanese headquartered multinational bank. Second, we could be seeking to hire a portfolio manager in competition with a large independent mutual fund complex. Third, we could be seeking to hire a new general counsel who has been offered a partnership at a large multinational law firm. None of these other organizations would be viewed as particularly comparable to PNC as a whole. If we must evaluate the excessiveness of our compensation package offered these candidates only by reference to an artificially limited group of potential competitors for their talent, we are likely to find ourselves limited in our ability to attract strong candidates into critical positions.

In determining whether our compensation is excessive or not for particular employees or groups of employees, therefore, we should be allowed to consider the compensation practices at other companies that represent comparable employment opportunities for the employees in question, regardless of whether they are financial institutions and regardless of the extent to which they resemble PNC in size, location and complexity. We encourage the Agencies to modify this factor to make this principle clear so that we and other financial institutions are not, as a practical matter, limited in the compensation packages we can offer to that represented by a too narrow universe of comparable employers. For example, §____.5(a)(2)(iv) could be modified to refer to "comparable compensation practices at entities that compete in the marketplace for individuals with similar skills, knowledge, and experience as the relevant covered person(s)."

Prohibition on Compensation That Encourages Inappropriate Risk--Role of the Compensation Committee

The Proposed Rule imposes responsibilities on the board of directors or a board committee of a covered financial institution with respect to incentive compensation oversight. While we concur in the importance of board-level oversight of an institution's overall incentive-based compensation program, we do not believe that directors should be expected to replace executives as the day-to-day managers of incentive compensation matters. We believe that it is critical to maintain board-level oversight at an appropriate level, and that directors should maintain a focus on issues, including risk-related ones, from an enterprise-wide perspective.

For example, §____.5(b)(2)(iii) provides as one of the components of permitted incentive-based compensation arrangements that they are "supported by strong corporate governance, including active and

effective oversight by the covered financial institution's board of directors or a committee thereof." In the release, the Agencies indicate that the board or committee "should actively oversee the development and operation of a covered financial institution's incentive-based compensation systems and related control processes." We are concerned that this language establishes an expectation as to the extent and nature of the role of board-level oversight of compensation practices and decision making. We believe that the appropriate role of the board and its committees is one of overall direction and oversight, not one of management, and that sound governance does not require active involvement by the board and its committees in the development and operation of internal processes and programs.

At PNC, our board's compensation committee reviews and approves the executive-level compensation programs and the total compensation packages of the members of executive management. This approval process includes careful oversight of the terms and conditions of these programs, including review of the alignment between behavior desired and behavior incentivized.

Even after eliminating and combining dozens of programs over the last several years, we have more than 70 active incentive-based compensation programs in addition to those covering executive management. For the most part, with respect to these compensation programs, the compensation committee's oversight is of necessity much more general, delegating to management the approval both of the specific terms of most of the programs and the amount of compensation provided under them. Committee members should be made aware of, and provide general oversight over, the ways in which incentive-based compensation programs incentivize and disincentivize certain types of behavior, the ways in which balance between risk and reward is achieved, and why management believes that the incentive-based compensation programs are appropriate for the institution and do not lead to a risk of material financial loss. To require substantially more from the compensation committee at all but the smallest and simplest covered financial institutions would, in our view, impose undue burdens on the members of board committees who have significant existing obligations. Committee members should not be expected as a routine matter to be actively involved at any level in the development and operation of individual plans, other than those covering the most senior management. We encourage the Agencies to make this distinction clear in the final rules and any accompanying release.

Similarly, under §____.5(b)(3)(ii), the compensation committees of large covered financial institutions will be required to identify those employees, other than executive officers, "who individually have the ability to expose the institution to possible losses substantial in relation to the institution's size, capital or overall risk tolerance." This section then requires the compensation committee to approve the incentive-based compensation arrangements for "any covered person" so identified, which requires a determination that the arrangement effectively balances rewards and risks and employs appropriate methodologies for ensuring risk sensitivity.

We assume that many, if not most, of the affected covered financial institutions, including PNC, will have dozens and perhaps hundreds of employees subject to this requirement, depending on the size of the institution and its business mix. These employees are likely to be participating in a wide range of different programs, depending on the nature of their activities. The Proposed Rule appears to require the compensation committee itself to identify these "high risk" employees and then, for each individual employee, perform the compensation review and approve the compensation. Similar to our concern with

respect to §____.5(b)(2)(iii) discussed above, we do not believe that it is appropriate or reasonable to impose a burden of this magnitude on the compensation committee. Indeed, if a board committee is required to identify, review, and approve the compensation of hundreds (or thousands) of employees, many of whom are not otherwise known to the committee members, the likely result will be the wholesale approval of management recommendations with little opportunity for additional analysis or insight.

In our view, a more effective form of board-level oversight would be to allow management to identify the affected employees and review compensation for each individual. Management could then report to the compensation committee the employees identified and the process used to identify them, and the other matters covered by §____.5(b)(3)(ii)(B) and (C). For groups of lower-level employees who participate in a common compensation program, allowing the aggregation of otherwise similar compensation arrangements facilitates effective board-level oversight of incentive-based compensation. It would also avoid placing an unreasonable burden on the compensation committee, or diverting a director's attention from enterprise-wide risk management issues to reviewing individual compensation decisions for employees with similar compensation arrangements who operate below the level of senior management.

Required Policies and Procedures

Section ____.6(b)(6) of the Proposed Rule requires covered financial institutions to have policies that, "where deferral is used in connection with an incentive-based compensation arrangement, provide for deferral of incentive-based compensation awards in [appropriate] amounts and for [appropriate] periods of time . . . and provide that the deferral amounts paid are adjusted to reflect actual losses or other measures or aspects of performance that are realized or become better known during the deferral period." We suggest that this be clarified so that it only applies to deferral arrangements that are used as a tool to achieve the balance required under §____.5(b)(2)(i). Otherwise, it would limit the ability of financial institutions to use deferrals to achieve purposes other than risk-reward balance where balance is adequately achieved through other tools. For example, an institution could adopt an incentive-based compensation program with a long-term performance period appropriately aligned with the time horizon of the related risks taken but decide that the payout at the end of long-term performance period should be partially deferred in the form of restricted stock as a retention tool. Doing so does not limit in any way the value or effectiveness of the balancing tool used (and indeed to some extent enhances it by tying the ultimate value of the compensation to corporate performance after performance vesting) and contributes value to the institution in other ways by helping secure the continued availability of key employees. (We also note that, as written, this requirement would seem to apply to voluntarily deferred incentive-based compensation, which we also suggest should not be its effect.) For these reasons, we suggest that §___.6(b)(6) be modified as follows: "where deferral is used as a means of balancing in connection with an incentive-based compensation arrangement . . . ."

Conclusion

PNC designs and implements incentive-based compensation programs in order to allow us to attract, retain and appropriately incentivize a high-caliber workforce capable of managing effectively our businesses and the associated risks. An effective enterprise-wide risk management program does not incentivize employees to take excessive risks, and a thoughtful incentive-based compensation program, tailored to a company's business model and strategic objectives, can be a useful component of the overall risk management approach. In that light, we are pleased to have this opportunity to provide our thoughts on the Proposed Rule.

Sincerely,

Joan L. Gulley

cc: VIA EMAIL

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA42
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552

Mary Rupp
Secretary of the Board, National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552