Wall Street Bonuses Subject to Tighter Regulation Under New Proposed Rule

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Senior Wall Street executives might have to wait longer for their full bonuses, according to a proposed rule announced by financial regulators today.

After years of delay, six U.S. financial regulatory authorities are still working on a proposed rule regulating incentive pay, which some believe encourages inappropriate risk-taking and could lead to "material" losses. Such regulation is mandated under the Dodd-Frank Act, or the Wall Street Reform and Consumer Protection Act.

Congress had directed regulators to prescribe a rule or guideline no later than 90 days after the Dodd-Frank Act was signed into law, which was nearly six years ago.

The National Credit Union Administration (NCUA) today released the proposal draft and voted to open it to public comment through July 22. The other five agencies involved are theFederal Deposit Insurance Corporation, the Securities and Exchange Commission, the Federal Reserve, the Federal Housing Finance Agency, and the Treasury Department's Office of the Controller of the Currency.

"Congress mandated action in this area because there were financial institutions which failed as a result of excessive risk-taking that was encouraged by incentive-based compensation arrangements which rewarded senior officials based on the volume of business they generated, regardless of whether the institution subsequently made or lost money on that business," NCUA vice chairman Rick Metsger said in a statement today.

The proposed rule is more strict for the financial institutions, including banks and credit unions, that have more assets. The toughest measures apply to "Level 1" institutions, or those with assets

of $250 billion and above. "Level 2" institutions have assets of $50 billion to $250 billion, while "Level 3" institutions have assets between $1 billion and $50 billion.

Under the proposed rule, a Level 1 institution would be required to defer at least 60 percent of a senior executive officer's incentive-based compensation for at least four years. A "significant risk-taker" -- that is, "individuals who are not senior executive officers but who are in the position to put a Level 1 or Level 2 covered institution at risk of material financial loss," according to the proposal -- at a Level 1 institution would have to defer 50 percent of their incentive pay for at least four years.

Meanwhile, a senior executive officer at a Level 2 institution would need to defer at least 50 percent of their bonus for at least three years. A "significant risk-taker" at that institution would defer 40 percent for at least three years.

Level 3 institutions don't have deferred incentive pay requirements yet, but the proposal invites comments about whether they should.

The proposed rule would prohibit either Level 1 or 2 institutions from accelerating the payment of a covered person's bonus, except in the case of death or disability.

Metsger said, "Like most rules written by a committee, this rule is probably not perfect, nor should we live under the misconception that by itself it will prevent another meltdown."

But Metsger said the rule is an effort to require accountability and limit risk-taking.

Thaya Brook Knight, associate director of financial regulation studies at the Cato Institute, a libertarian think tank, called the rule "unnecessary regulation."

"It is in my mind the most troubling, because it directs the financial regulators to stand in the place of the corporate board," she told ABC News.

She said companies will likely come up with new pay structures to avoid regulation.

A past example of this, she said, is the tax code's section 162(m), which tried to curb executive pay during the Clinton era. Instead, companies shifted pay to stock options.

"It’s like water," Knight said of executive pay. "It goes where it needs to go."