



bankers' compliance group®

FDIC Reintroduces Proposed Rule on Incentive Compensation*

In April 2011, federal financial regulators published proposed rules to implement Section 956 of the Dodd-Frank Reform Act (the “2011 Proposed Rule”). Section 956 generally requires that federal financial institution regulatory agencies (OCC, FRB, FDIC, NCUA, and Federal Housing Finance Agency (FHFA), collectively, the “Agencies”) jointly issue regulations or guidelines prohibiting incentive-based payment arrangements determined by the Agencies to encourage inappropriate risks and requiring certain financial institutions to disclose information concerning incentive-based compensation arrangements to the appropriate agency. On April 26, 2016, the Agencies revised and re-issued the proposed rule (2016 Proposed Rule). 81 FR 37670. However, neither the 2011 nor 2016 Proposed Rule have been adopted as a final rule.

On May 6, 2024, the FDIC, OCC, and FHFA reissued the 2016 Proposed Rule (the “2024 Proposed Rule”). The 2024 Proposed Rule retains the same regulatory text as the 2016 Proposed Rule. However, the questions the agencies seek comment on (included in the preamble of the proposal) have been revised. Institutions should refer to Part Two, Section II.J. of BCG Standard Procedures Manual #17, *Managing Financial Institutions*, for a detailed discussion of the 2016 Proposed Rule.

Notably, the FRB, NCUA, and SEC did not sign on to the 2024 Proposed Rule. However, Section 956 of the Dodd-Frank Reform Act requires all of the Agencies to jointly issue regulations prohibiting high-risk incentive compensation arrangements. The FDIC’s announcement indicates that the NCUA is expected to take action on the 2024 Proposed Rule in the near future. Additionally, the SEC has included Section 956 on its rulemaking agenda.

Institutions can read the FDIC’s announcement at the following link: <https://www.fdic.gov/news/press-releases/agencies-issue-proposal-incentive-based-compensation>. The failure of all the Agencies to sign on to the 2024 Proposed Rule could cause further delays to the implementation of Section 956. Institutions should stay tuned for further developments on the progress of this proposal.

For more information, contact Joel Cook at JCook@ABLAWYERS.COM or John Davis at JDavis@ABLAWYERS.COM.

Copyright © 2024
Aldrich & Bonnefin, PLC*
All Rights Reserved

*Advertisement. This information is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation. Contacting Aldrich & Bonnefin PLC does not create an attorney-client relationship. Please do not send any confidential information to us until such time as an attorney-client relationship has been established. Janet Bonnefin is retired from the practice of law with the firm.