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MAXIMIZING RECRUITMENT, RETENTION AND REWARDS WITHIN NCUA RULES

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» Regulatory Climate

- Risk-based capital rules
- 701.19 investments to fund benefits
- Board due diligence

» Interagency Statement

- Bank guidance from OCC, FRB, FDIC and former OTS
  - Prudent Risk Management
  - Senior management and board oversight – annual reviews
  - Thorough pre-purchase analysis
  - Identify need for insurance and quantify amount (25%/15% standards)
  - Assess vendor qualifications (long-term commitment)
  - Review characteristics of available insurance products
  - Select carrier (again, long-term commitment)
- Creeping into credit union examinations as hard cap of 25% of capital

» Benefits Pyramid – Foundational Analysis

- Fair and reasonable compensation
  - What are similarly-sized credit unions paying their executives?
  - Survey data and 990's provide data for comparison
- Design options for attraction, retention and reward
  - Vesting requirements/events
  - Creditor status (general or secured)
  - Access to dollars (current or deferred)
  - Tax status (pre-tax or after-tax)
- Funding
  - Cash
  - Permissible investments
  - Impermissible investments
  - Trust or no trust

» Risk Assessment

- Liquidity: risk to earnings on liquidation?
- Transactional: does the board understand the product?
- Reputation: risk to earnings from negative publicity?
- Credit Worthiness: credit rating of carrier?
- Interest Rate: how do changes in rates affect earnings?
- Compliance: is the insurance investment compliant?
- Strategic: does the investment align with philosophy?

» Concentration Limit Guidepost

- Measure of liquidity
- Not a standard unto itself

» Board Due Diligence

- Must understand the basic purpose and design
- Regulators looking for active board involvement in design and review
- Does the plan funding qualify under the credit union's investment policy?

» General Questions Boards Should Ask

- What type of investment is being proposed?
- When does the investment mature?
- How does the plan work?
- Risk analysis and possible mitigation strategies?
- Does the board understand the big picture?
- Is the insurance company financially stable?
- Consultant has strong track record and is stable?
- Are the earnings from the plan less than the benefit plan costs it offsets?
- Annual plan review?
- What is the exit strategy (e.g., surrender charges)?

» Specific Questions Boards and Regulators Should be Asking re: LRSD Arrangements

- Will the policy perform as illustrated?
- Is executive borrowing monitored and controlled?
- How is the borrowing determined?
- How does the arrangement protect against the policy lapsing?

» Regulatory and Legal Horizon

- Camp tax reform proposal
  - Tax brackets – 10%, 25%, 35% (investments)
  - 25% excise tax on compensation in excess of $1 mil
  - 25% excise tax on golden parachute payments
  - Move all deferred compensation to 457(f) model
- 457(f) and severance regulations – 7 years and counting
- Call Report disclosure of impermissible investments

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