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July 22, 2016

The Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

The Honorable Martin J. Gruenberg
Chair
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Rick Metsgar
Chair
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

The Honorable Mel Watt
Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

The Honorable Mary Jo White
Chair
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Janet L. Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Via email:

regs.comments@occ.treas.gov;
regs.comments@federalreserve.gov;
comments@fdic.gov;
rule-comments@sec.gov.

Re: Proposed implementation of incentive compensation rules as provided under Dodd-Frank Sec. 956

Dear officers,

On behalf of more than 400,000 members and supporters of Public Citizen, we appreciate the opportunity to comment on the above-listed agencies' (the 'Agencies') Proposed Rule on compensation standards under Dodd-Frank Section 956 (the 'Proposed Rule').

The 2008 financial crash stemmed from numerous causes, and one of the biggest was inappropriate risk-taking by bankers in pursuit of incentive-based compensation. On Wall Street, the money for such bonuses can be unfathomably big. In 2010, Public Citizen published a report that translated these unfathomable sums into hourly rates. It is titled "Hourly Rates: A modest look at Extraordinary Paychecks." A selection:

> No matter how well compensated our Hollywood and sports stars are, the real money comes from the business of money. The AFL-CIO's PayWatch noted that recently major bankers, apparently embarrassed by their dependence on record taxpayer subsidies, have tightened their belts. Thomas Montag, president of global banking at Bank of America, received only $29 million, or $14,500 an hour. But the hedge funds have no such restraint. The magazine Institutional Investor declared David Tepper the best paid hedge fund manager in 2009 at $4 billion. To put this in perspective, that is $2 million an hour. That is one million dollars every half hour. A Pittsburgh native, he donated $55 million to Carnegie Mellon University, which gratefully changed the name of a graduate program to the David Tepper School of Business. That was half a week's paycheck.

Section 956: Inappropriate risk-taking

With Section 956, Congress equipped the Wall Street regulators with the ability to reform pay structures with a goal of avoiding such skewed inventive compensation. It is a simple, brief and powerful section of the law. Congress decided that incentive-based compensation mustn't incentivize "inappropriate" risk-taking. The term "inappropriate" can encompass much. Certainly fraud is "inappropriate," as is a loan to someone who cannot afford to repay. Arguably, the derivatives market that is unrelated to hedging is "inappropriate."[1]

[1] See Public Citizen's exegesis that is the introduction of Too Big, mentioned above. Bartlett Collins Naylor, *Too Big,* PUBLIC CITIZEN, (June 22, 2016) http://www.citizen.org/documents/TooBig.pdf

This Proposed Rule substantially improves on what was first proposed in 2011 by the Agencies. Most notable among the improvements in the 2016 proposed rule is the scope and reach of the deferral requirements. Also to be lauded are the specified limits on incentive pay. These requirements now encompass significant material risk-takers in a company in addition to the Named Executive Officers and other senior executives. We applaud the Agencies for this. Further, we welcome the section of the rule that requires the regular review of bonus pay for possible reduction and improved internal risk controls and oversight. We also laud the limitations on inappropriate pay practices related to volume-based incentives, relative compensation, accelerated vesting of incentive-based pay, and bonus pay received compared to target levels. We appreciate the effort to prevent banks from accelerating awards to those taking government job, a truly pernicious practice.

Finally, we applaud the clear and robust declaration of principles in the Agencies articulation of the problem.

> Poorly structured incentive-based compensation arrangements can provide executives and employees with incentives to take inappropriate risks that are not consistent with the long-term health of the institution and, in turn, the long-term health of the U.S. economy. Larger financial institutions in particular are interconnected with one another and with many other companies and markets, which can mean that any negative impact from inappropriate risk-taking can have broader consequences. The risk of these negative externalities may not be fully taken into account in incentive-based compensation arrangements, even arrangements that otherwise align the interests of shareholders and other stakeholders with those of executives and employees.[2]

However, we remain troubled that loopholes in the drafted rule tear at the fine fabric of these principles and undermine the intent of the regulation. For example, the specific deferral requirements for bonus pay are too short and pro rata. We cannot rely on boards of directors alone to fulfill the Congressional mandate of banning forms of compensation that induce inappropriate risk-taking. These loopholes could potentially allow financial firms to pay the great majority of all bonus compensation to key personnel even if inappropriate risk-taking or misconduct occurred. In addition, by failing to specify clear limits on the underlying composition of pay packages the Agencies also risk permitting incentives for excessive risk created by equity-based pay, especially stock options, to continue.

Our letter is organized as follows. First, we precis our concerns. Next, we describe these concerns in more detail. Finally, we attach a series of appendices, including a letter we co-signed with other organizations.

Summary

1. **Deferral rules are weak.**

While the Agencies acknowledge business cycles that are at least five years in length, and the financial fraud statutes provide for 10 years to detect complex financial crime,[3] the Agencies only require 60

[2] Incentive compensation, joint rulemaking, (2016) https://www.sec.gov/rules/proposed/2016/34-77776.pdf

[3] The Financial Institution Reform, Recovery and Enforcement Act of 1989, or FIRREA, http://thomas.loc.gov/cgi-bin/query/z?c101:H.R.1278.ENR:

percent of bonus pay to be deferred for only four years for the most senior executives at the largest banks. For lower level employees, there are even more lenient terms. Adding to the dilution, the Agencies allow pay to vest in equal (pro rata) shares each year. The five most senior Named Executive Officers could receive 70 percent of their pay within two years and 85% within three years. We believe that the deferral period should apply for at least six years, and ideally 10 (because of the financial fraud statute), with no pro-rata vesting.

2. **Management is accorded too much discretion regarding clawbacks and other adjustments to pay for misconduct.**

Even in the face of misconduct, the Agencies only provide that managements "consider" reducing bonus pay. We believe that misconduct should not be rewarded with any pay at all. Ideally, the manager should be dismissed and identified to federal authorities. We also ask that the proposal require that boards of directors identify a class of senior executives whose pay will be subject special deferral to satisfy regulatory penalties imposed on the firm.

3. **Ban stock options.**

Stock options provide asymmetric incentives that can be fatal to a bank. They should be banned. Instead, senior executives should be compensated in debt that converts to equity in the event of insolvency.

4. **Ban hedging.**

Incentive-based compensation turns on the risk of performance. If this risk can be eliminated (through the payment of an insurance premium), the point of incentive-based compensation is defeated. The Agencies propose to ban companies from hedging, but not their employees. The Bank of England already requires the banks it supervises to maintain policies that prohibit individual hedging, and several major U.S. banks have voluntarily instituted such anti-hedging policies. This rule should do so.

Now, we turn to these issues in more detail.

Deferral

A centerpiece of the rule is the requirement that a minimum fraction of bonus pay be deferred for material risk-takers and senior executives at large banks. The proposal requires 60 percent of bonus pay to be deferred for a period of four years for the most senior executives at the largest banks, with lower levels of deferral (e.g. 50% for three or four years) for other material risk-takers and executives at midsize banks. Pay can vest in equal (pro rata) shares each year. In a practical sense, this means that even the very highest-ranking executives could receive 70% of their pay within two years and 85% within three years (40% in the initial performance year, and then an additional 15% per year after that). The Agencies themselves observe that the length of a typical business cycle is approximately six years, and a typical 'credit cycle' (the more relevant metric for a financial institution) is longer than that.[4] This means that the costs of inappropriate risk-taking may not be revealed until the great majority of incentive-based pay has been paid out.

[4] See footnote 154 in the Proposed Rule.

In the financial crisis, 85% of a bonus granted to a top executive in a major bank at the beginning of 2002 would have been paid by the close of 2005 – before the first indications in the subprime mortgage market became manifest. For a significant risk-taker leading a major bank trading desk, 80% of such a bonus would have been paid by the close of 2004.

We believe that effective deferral periods must be significantly longer than what the Agencies provide. At the very least, a significant majority of bonus pay should be deferred for the entire length of a business cycle. This could be accomplished through replacing pro rata vesting with cliff vesting, and lengthening the deferral period. Cliff vesting is where employees earn the right to receive full benefits from the employee account at a specified date, rather than becoming vested gradually over a given period of time.

Mr. Ticker Explains

The Agencies engage in a welcome exercise by using an example with a hypothetical banker. In this case he is named Mr. Ticker. He is hypothetically a rogue. "Mr. Ticker is a significant risk-taker who is the senior manager of a trader and a trading desk that engaged in inappropriate risk-taking in calendar year 2021, which was discovered on March 1, 2024. The activity of the trader, and several other members of the same trading desk, resulted in an enforcement proceeding against ABC and the imposition of a significant fine." Restated, Mr. Ticker and his team manipulated markets, and successfully hid it from the board for three years.

The fictional Mr. Ticker manipulated the markets, of course, to make himself a prodigious amount of money. The Agencies then propose a timid response regarding Mr. Ticker's pay.

> "In this case, [Mr. Ticker's bank] decides to defer $30,000 of Mr. Ticker's incentive-based compensation for three years so that $10,000 is eligible for vesting in 2022, $10,000 is eligible for vesting in 2023, and $10,000 is eligible for vesting in 2024. No adverse information about Mr. Ticker's performance comes to light in 2022 or 2023 and so $10,000 vests in each of those years. However, Mr. Ticker's inappropriate risk-taking during 2021 is discovered in 2024, causing ABC to forfeit the remaining $10,000. Therefore, the amounts that vest in this case are $10,000 in 2022, $10,000 in 2023, and $0 in 2024."

We find this deterrence mechanism weak. The bank identifies a senior employee who violated the law. The Agencies now encourage the management to reduce his incentive-based pay by about a third. Regulators provide that only half of the incentive pay must be deferred. And the incentive part is on top of the regular pay. For example, the average bonus for Wall Street employees in 2015 was $146,200, according to the New York State Comptroller.[5] This pay is on top of $258,000 in regular (non-incentive) pay. In other words, Mr. Ticker would receive half of the $146,200 immediately, leaving $73,100 deferred. He then pockets two-thirds of the $73,100 before his supervisor detects his illicit scheme. In the

[5] Broker Pay, NEW YORK STATE COMPTROLLER (February 2016) https://www.osc.state.ny.us/press/releases/mar16/030716.htm

end, he only forfeits $24,366. The penalty for misconduct for this Mr. Ticker, who is paid $404,000 a year, is $24,366.

Finally, the Agencies require only that management "consider" this reduction. Nor do the regulators propose requiring that the pay penalties be disclosed publicly.

Public Citizen supports full disclosure and full forfeiture. If the price of misconduct includes the publication of names, that can bolster deterrence. This resume blemish could scar employment prospects, and, as such, act as a significant deterrent. We also support much longer pay deferral periods. In early April 2016, Goldman Sachs paid a $5 billion penalty to settle claims of misconduct dating back to 2006.[6] We are unaware of any culpable individual who was required to return bonus pay from that episode because disclosure of this isn't required.

New York Federal Reserve President William Dudley proposes pay clawbacks as follows: a substantial portion of pay for senior bankers would be set aside 10 years for a reserve that can pay for these sorts of penalties without regard to whether the senior employee committed the fraud.[7] That would incentivize a new culture of fighting corruption within the ranks and senior management. And while an innocent manager might suffer, the current system punishes the innocent shareholder. Ideally, the bankers will operate within the law. We support this Dudley proposal. The Board should identify a number of senior officials subject to this deferral pool, which would be used to satisfy misconduct penalty payments.

Stock Options

The Agencies propose to limit the use of stock options in the part of pay that is defined as incentive-based compensation. We believe stock options should be barred altogether for bonus pay.

Stock options can align managers' interests with those of other shareholders. Risk-taking is what companies, including banks, do. At most companies, it is called the effort to innovate. This can make sense at a firm such as Apple. Managers might coast on iPhone revenues and pay themselves handsomely. But a shareholder prefers a rising stock price that derives from successful, profitable innovations.

Risk-taking can become volatile at a bank when mixed with stock options.[8] For a senior manager, options incentivize risk taking. If a manager receives options at $50, and the stock price falls to $40, the options are worthless unless the manager takes drastic steps such as a sizeable derivatives venture. On Wall Street, this meant relaxing the underwriting standards on mortgage lending so as to generate fees for the bank by bundling them into packages that can be sold to investors (and letting these investors suffer the consequences). Taking such steps, means the senior manager may profit handsomely, or lose nothing.

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[6] Settlement, *U.S. v. Goldman Sachs*, DEPARTMENT OF JUSTICE, (April 2016) https://www.justice.gov/opa/pr/goldman-sachs-agrees-pay-more-5-billion-connection-its-sale-residential-mortgage-backed

[7] Bartlett Naylor, *Decimate Wall Street*, HUFFINGTON POST (NOV. 22, 2014) http://www.huffingtonpost.com/bartlett-naylor/decimate-wall-street_b_6029372.html

[8] Michael Lewis, *The Next New Thing*, W.W. Norton, (2008)

The Agencies recognize the dangers of options. They observe: "Overreliance on options as a form of incentive-based compensation could have negative effects on the financial health of a covered institution due to options' emphasis on upside gains and possible lack of responsiveness to downside risks." Some firms now eschew issuing options, including JP Morgan and Citigroup. [9]

The Agencies' proposed solution fails to limit the use of options significantly. Under the proposal, a senior executive can be paid in an unlimited amount of stock options. Options are limited only in the part of the compensation that is deemed "incentive" compensation. Incentive compensation is defined as that which is variable, that is, based on meeting some goal. In this part, no more than 15% of the incentive-based compensation can be based on options. But that doesn't limit a bank from supplying options that vest immediately, or do not depend on a performance test.

Ideally, senior managers would be awarded incentive-based compensation in the form of convertible debt. Debt prices the safety of the firm, as it does not go up or down in price based on the profits of the firm, Debt simply promises the investor a fixed interest rate and eventual repayment, provided the firm remains solvent and does not enter bankruptcy. Convertible debt turns to equity on the event of insolvency (when the value of assets is less than the value of liabilities). Since an insolvent firm has little value to its owners, that equity would have commensurately little value. But using convertible debt, senior managers would be incentivized to keep the bank solvent.

Hedging

As with stock options, the Agencies articulately introduce the possibility of preventing hedging incentive-based pay, and then ignore a remedy. If a manager can purchase an insurance contract that protects against loss of future income because of failure to meet a quota or a benchmark or contributing to the demise of the firm and therein the value of his stock options, then incentive-based compensation is rendered useless. The Agencies bar the firm from purchasing hedging contracts for their employees. But as in the United Kingdom, they should require firms to sign contracts with employees containing a pledge of non-hedging.[10] These contracts should be written such that any proceeds from an illicit insurance claim would be returned in even shares to the insurance company, the bank, and any whistleblower upon detection.

[9] Proxy Statement, JPMorgan, [2015), available at: https://www.sec.gov/Archives/edgar/data/19617/000001961716000933/jpmc2016definitiveproxy.htm#s75F6874A610C1B57AA641C1B3061F51C

[10] PricewaterhouseCoopers, ''*Executive Compensation: Clawbacks, 2014 Proxy Disclosure Study*'' (January 2015), *available at http://www.pwc.com/us/en/hr-management/publications/assets/pwc-executive-compensation-clawbacks-2014.pdf*;

Economic Analysis

Finally, we take strong exception to what the SEC has labelled the economic analysis for the rule.

The economists at the SEC write: "Academic literature does not provide clear evidence that [Wall Street workers under the SEC's purview] have produced negative externalities for taxpayers." That is to say, the economists claim the literature is mixed on whether Wall Street recklessness precipitated a taxpayer bailout. That there was a bailout is also subject to debate at the SEC: "Some have argued that during financial crises the losses of certain financial institutions have resulted in taxpayer assistance." Apparently, these economists are agnostic about the very existence of the $700 billion Troubled Asset Relief Fund used to bailout the mega-banks.

How might the SEC have come to these conclusions? One way is by doing essentially no original research. As a government agency, the SEC might have used its legal authority to examine the banks' confidential pay practices in the years leading to the crash. They might have randomly sampled veterans of the years leading up to the crash and asked whether and how potential bonuses figured in their decision making. They might have compared compensation structures at firms that did not behave fraudulently and recklessly with those that did. This they did not do.

Instead, the SEC depends exclusively on scholarly work done by outsiders. Most of this scholarship is irrelevant. Of the 43 footnote citations in the SEC review, 39 of them contain academic studies that are not about the period leading to the 2008 Wall Street crash, or not about bank compensation specifically. Instead, they are about how compensation works at the average company. These are critical mistakes.

Banks are different from average companies. Banks deploy money borrowed with a taxpayer guarantee; no other private company enjoys such access to such funds made abundant and cheap by the FDIC protection. Moreover, banks are leverage plays, meaning they borrow 95 cents and add it to their own 5 cents on every venture. If the $1 venture leads to a 10 cent gain, that's shared with the shareholders who put up the 5 cents. And if they lose 10 cents, the government pays off the depositors putting up the 95 cents. Moreover, studying compensation factors outside the critical period in question has little to do with what clearly went wrong.

That leaves four footnotes relevant to the crash itself.

Let's examine each of them. One of these footnoted studies follows this SEC statement: "Some studies argue that compensation structures did not encourage inappropriate risk-taking and that managers were severely penalized since their portfolio values suffered considerably during the financial crisis." "Some" studies is actually just one authored by Kevin Murphy.

Professor Murphy is well-published on the subject of compensation, although banking isn't his specialty. Of note, in addition to academic analysis, Murphy has consulted for the private sector, including IBM, AT&T, Merck, Bristol-Myers-Squibb, Genzyme, Procter & Gamble, Philip Morris, General Motors, Prudential, and Chubb.[11] The Murphy study cited is titled, "Compensation Structure and Systemic Risk."

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[11] Kevin Murphy, *Testimony: Compensation Structure and Systemic Risk,* U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES, (June 11, 2009) http://archives.financialservices.house.gov/media/file/hearings/111/kevin_murphy.pdf

Professor Murphy does indeed say that the evidence is unclear.[12] However, the figures he cites refer only to 2007 and 2008. He does not inspect the period before the problems became evident to the outside world. More importantly, Murphy *does* recognize the connection between pay and fraud. He explains, "A solution to this performance-measurement problem is to pay people to write "good loans" and penalize them for writing "bad loans". The challenge is identifying a good loan without waiting up to 30 years to find out whether the loan is actually repaid. The answer involves basing bonuses on subjective assessments of loan quality. Unfortunately, most current and proposed regulations go in the opposite direction and require that bonuses be based solely on objective measures of performance, such as the quantity (rather than the quality) of loans." In other words, even an industry paid consultant acknowledges the connection between pay and reckless, fraudulent loan making.

A second footnoted study specifically about banker pay and the crash is cited to back up this SEC observation: "The fact that executives were still significantly exposed to firm performance by holding on to stock options and restricted stock units when the crisis occurred can be viewed as an indicator that these executives had no knowledge of the significant risks associated with their actions." The cited study is "Bank CEO Incentives and the Credit Crisis," by Ohio State University Professor Rene Stulz.[13]

This study does not, in fact, say precisely what the SEC says it does. The closest that Stulz comes is this: "For the median CEO, the value of stock and options in his portfolio was more than eight times the value of his total compensation in 2006. Consequently, changes in his bank's stock price could easily wipe out all of a CEO's annual compensation. The large holdings of vested unexercised options are striking. They are not consistent with the view that somehow the typical CEO knew that there was a substantial risk of a crash in the stock price of his bank." It's a fair question. If the bankers knew their firm would fail, it'd be rational to resign and find other employment. But the Stulz study looks at a sector of 132 banks. Some senior executives did leave and some didn't, and what Stulz looks at is a composite. In other words, some didn't leave because they might not have made reckless, fraudulent loans. Surely some among the 132 banks were honest and prudent. The Stulz study seems intended to prove that the link between pay and risk taking isn't easily proven by showing an absence of evidence. But the absence of evidence is not the evidence of absence. If one can't find one's car keys, it doesn't mean they've vanished; it means one keeps looking.

As with Murphy, Stulz has drawn income from industry, in his case, banks. A Reuters investigation of conflicted economists found that "Stulz is on the board of directors of Swiss financial firms Banque Bonhote and Wegelin Asset Management. He is also a director at Community First Financial Group and Peninsula Banking Group." Reuters noted that he omitted these affiliations when he testified before Congress. He told Reuters he did not consider his financial ties to be relevant to his testimony.[14]

Of the 43 footnotes, only two admit the possibility that pay practices and banker misbehavior are connected.

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[12] Kevin Murphy, *Testimony: Compensation Structure and Systemic Risk,* U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES, (June 11, 2009) http://archives.financialservices.house.gov/media/file/hearings/111/kevin_murphy.pdf

[13] Rene Stulz, *Bank CEO Incentives and the Credit Crisis,* JOURNAL OF FINANCIAL ECONOMICS 99, 11−26.

[14] Emily Flitter, Kristina Cooke, and Pedro de Costa, For some professors, disclosure is academic, REUTERS (Dec. 20, 2010) http://www.reuters.com/article/us-academics-conflicts-idUSTRE6BJ3LF20101220

One of these notes that bank where the compliance officials are relatively well paid proved safer than those with low-paid compliance officers. The report by Andrew llul and Vijay Yerramilli is titled "Stronger Risk Controls, Lower Risk: Evidence from U.S. Bank Holding Companies.[15] This makes sense.

The second footnote to address the connection between bank misbehavior and pay practices then leaves a a grand total of one footnote that directly addresses studies that examine the obvious, namely that bankers looking to enrich themselves contributed to the Wall Street crash. In the guarded observation of the SEC:[16] "Some other studies argue that, whereas bank executives lost significant amounts of wealth tied to their stock and stock option holdings during the crisis, they also received significant amounts of compensation during the years (2000-2008) leading up to the financial crisis." In the footnote following this observation are two studies. One of these is from Prof. Brian Bolton, titled "Bank CEO Incentives and the Credit Crisis." Bolton summarizes: "We study the executive compensation structure in the largest 14 U.S. financial institutions during 2000-2008. Our results . . . [find that] managerial incentives matter – incentives generated by executive compensation programs led to excessive risk-taking by banks leading to the current financial crisis. Also, our results are generally not supportive of the conclusions of . . . Stulz (2011) that the poor performance of banks during the crisis was the result of unforeseen risk."

The other scholar in this lone footnote is Harvard Professor Lucian Bebchuk. (Bebchuk is prolific.) In "The Wages of Failure," cited by the SEC, Professor Bebchuk finds that the wages of failure are high.[17] The 10 senior executives of Bear Stearns and Lehman Brothers were paid $1.4 billion in eight the years leading to the crash (2000-2008). That's an average of $140 million each.

While not referenced by the SEC, there are voluminous studies exploring the link between Wall Street pay and the crash. We include an appendix with a few of them. Public Citizen also referred to a few of these studies in a 2014 letter to the SEC and to a few others in our 2011 letter, which was submitted before the comment deadline. These are not mentioned in the re-proposal. Finally, we reprint a random sample at the end. We urge the SEC economists to refine their analysis.[18] [19]

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[15] Ellul, A., Yerramilli, V. 2013. Stronger Risk Controls, Lower Risk: Evidence from U.S. Bank Holding Companies. *Journal of Finance* 68, 1757–1803. (taken from proposed rule)

[16] The proposed rule preamble presents the footnote this way: Bebchuk,. L, The Wages of Failure: Executive Compensation at Bear Stearns and Lehman 2000–2008. *Yale Journal on Regulation* 27, 257–282.

[17] Bebchuk, L., Cohen, A., Spamann, H. *The Wages of Failure: Executive Compensation at Bear Stearns and Lehman* 2000–2008. YALE JOURNAL ON REGULATION 27, 257–282

[18] The SEC was last in releasing its version of the rule, which is hardly dispositive, but fits in the pattern or tardiness. The National Credit Union Administration led with its proposal in April 2016, followed by the FDIC, OCC, and then the Federal Reserve. The SEC's came only on May 4.

[19] Sam Knight, *Fed Chair Pressured to Finalize Long Overdue Rules,* THE DISTRICT SENTINEL (Nov. 4, 2015) https://www.districtsentinel.com/fed-chair-pressured-to-complete-long-overdue-rules-on-banker-pay-incentives/

Conclusion

There can be no dispute that bad pay practices were a root cause of the financial crisis. One need look no further than the banker comments themselves when this rule was first proposed in 2011. All the comments acknowledged this point, and several Wall Street commenters sermonized on the need for reform. Public Citizen recited their words in our report "Just Not Us."[20] We titled it that because at the end of these sermons, the banker inevitably noted that his institution differed from the norm, and should be excused from the rules that apply to others.

We think the Agencies should pay little attention to what bankers say about this rule, just as one should little listen to a felon about his parole. Instead, the Agencies should listen to actual Americans, investors, and those that represent them. We invited our members to submit comment on this rule. More than a thousand did, with individual descriptions of what the crash did to them. We object to the fact that these letters are dismissed as "form" letters in the new re-proposal. We reprint a random handful at the end. We ask that these letters not be minimized as "form" letters if or when acknowledged in the final rule.

We cannot support this proposal without repair to the deficiencies we outlined regarding the deferral period, claw backs, stock options, hedging, and placing senior pay is at risk for violations by the bank. We believe the deficiencies are all reparable within the structure of the existing rule, and there is no need for a re-proposal.

President Obama has repeatedly pointed to a "gambling" ethic as corrupting Wall Street. We support his call for reform through strong implementation of Dodd-Frank Wall Street Reform Sec. 956.

For questions, please contact Bartlett Naylor at [redacted], or [redacted]

Sincerely

Public Citizen

[20] Bartlett Naylor, *Just Not Us*, PUBLIC CITIZEN (July 2011) http://www.citizen.org/documents/Just-Not-Us.pdf

APPENDIX I Economic Studies of Banker Pay Structures

Admati, A., DeMarzo, P., Hellwig, M., Pfleiderer, P., 2010. Fallacies, irrelevant facts, and myths in the discussion of capital regulation: why bank equity is not expensive. Unpublished working paper. Rock Center for Corporate Governance at Stanford University.

Bebchuk , L., Cohen, A., Spamann, H., 2010. The wages of failure: executive compensation at Bear Stearns and Lehman 2000-2008. Yale Journal on Regulation 27, 257-282.

Bebchuk, L. and Fried, J. M., 2010. Paying for long-term performance. University of Pennsylvania Law Review 158, 1915-1957.

Bebchuk , L., Martijn Cremers and Urs Peyer The CEO Pay Slice, 102 Journal of Financial Economics 199-221(2011).

Bebchuk , L., with Jesse M. Fried, How to Tie Equity Compensation to Long-Term Results 22 Journal of Applied Corporate Finance 99-106 (2010).

Bebchuk , L., How to Fix Bankers' Pay ,139 Daedalus 52-60 (2010)

Bebchuk , L , Harvard Law School Olin Discussion Paper No. 659, January 2010.
[Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors and reprinted in the Corporate Practice Commentator.]

Bebchuk , L., with Jesse Fried, Paying for Long-Term Performance,158 University of Pennsylvania Law Review 1915-1960 (2010).

Bebchuk , L., with Yaniv Grinstein and Urs Peyer, Lucky CEOs and Lucky Directors, 65 Journal of Finance 2363-2401 (2010).

Bebchuk , L., with Holger Spamann, Regulating Bankers' Pay, 98 Georgetown Law Journal 247-287 (2010).[Selected as one of the year's top 10 corporate and securities articles in the annual poll of corporate law professors and reprinted in the Corporate Practice Commentator.]

Bhagat, S., Romano, R., 2009. Reforming executive compensation. Yale Journal on Regulation 26, 359-372.

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Houston, J., Lin, C., Lin, P., Ma, Y. 2010. Creditor rights, information sharing, and bank risk taking. Journal of Financial Economics 96 , 485-512.

Laeven, L., Levine, R., 2009. Bank governance, regulation and risk-taking. Journal of Financial Economics 93, 259-75.

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APPENDIX II

COMMENT LETTERS FROM CONCERNED INDIVIDUALS

Below are fifteen comment letters from individuals filed with regulators regarding the importance of 956 that we have reviewed. We calculate that more than 900 such letters have been filed with the Agencies. We make no representation that these fifteen letters are either representative, or are in anyway the "best," or most articulate. We present them, simply, to impress upon the Agencies that 956 must answer a very real problem the American people.

http://www.sec.gov/comments/s7-12-11/s71211-316.htm

Subject: Comments for File Number S7-12-11

A. From: Laura Martin

May 23, 2011

I am writing to you because my I wanted you to hear my story due to and since the Wall Street collapse of 2008.

In 2008, I was a happy single mom. I had a good job and was able to modestly provide for my two children. We were able to afford the necessities of life such as food, medicine, shelter, etc. I was able to pay our bills and have a little left over for a movie or some type of inexpensive entertainment. We were not wealthy by any means, but life was good!

Then the economic tsunami hit in 2008. As a consequence, I lost my job. I was unable to find another job. I had to apply for unemployment. I kept hoping over time that something would turn up in the job market, but time after time I was turned down. I had worked all of my life and felt worthless now. I lost my health insurance not just for myself but for my children. After my unemployment benefits ran out, I had to go on welfare. In the meantime, I was diagnosed with a terminal disease. My hope for the attainment of the American dream is over. I eventually got a job which paid a little more than minimum wage. I do not make enough money to support my children and my medicine is so expensive that I sometimes just go without.

My family has suffered greatly due to the recklessness and greed of Wall Street. I believe that compensation should be based upon how many communities you help with small business loans, home loans, etc. The banks were supposed to lend the money, not keep it for themselves. There should be no compensation whatsoever unless Americans are being helped in some fashion. They have destroyed the dream for so many people, now they should be placed in a position to do something about that, something positive. The American people were looted by greedy Wall Street pirates whose actions have caused consequences the magnitude of foreign terrorists.

Compensation should be based upon making your particular community better by lending money to consumers, depositors and by investing some of their money in schools and job education.

Laura Martin

http://www.sec.gov/comments/s7-12-11/s71211-297.htm

Subject: File No. S7-12-11

B. From: Gregory Bryant

May 23, 2011

I have been out of work since late September of 2008. Though the financial crisis was not the cause of my loss of employment, it definitely is the cause of my inability to secure meaningful employment.

I have an advanced degree, which should make it simple to find employment in my field. Or so one would think. In 2009, the state of Ohio severely cut its funding to state institutions, such as public colleges and universities. The major educational institution in the Cincinnati area, the University of Cincinnati, froze or withdrew all open positions. I was the prime candidate for one of those positions, until it was withdrawn due to a budget shortfall in the state, caused by the current financial crisis.

Private colleges and universities were also affected. They saw a loss of student enrollments, which also impacted their operating budgets.

Still, I kept looking. At least I was entitled to unemployment insurance, though the various games that the politicians played with it did lead to periods of no income. Finally, unemployment insurance ran out for me in December, 2010. Since that time, I have managed to pay my bills through withdrawals from an IRA retirement account. The sad thing is that retirement account was supposed to help me through my retirement years. Now its gone, and either I will have to replenish it, and / or work much later in life than I planned to work.

That is, if I ever do find work. I have lowered my expectations, applying for jobs for which I am capable of performing the tasks, but also for which I am very overqualified. I think it is because of this latter fact that I have not been hired for these jobs – because I am overqualified.

I have approximately three months before I am unable to pay my mortgage and other bills. Just to be clear, I have gone on an emergency budget. But then again, I have always been frugal, so there was little to cut out of my budget. I do work with a local social service agency to negotiate with the bank regarding my mortgage, but this process has taken forever. I also work with the local vocational rehabilitation office to qualify for services because of personal disabilities. 17

As I continue to read the news, I look at how various states are cutting or attempting to cut unemployment benefits and other safety net benefits for those of us impacted by the financial crisis.

And then I read about the corporations, banks, financial institutions and their highly paid, no, obscenely paid officers – people who caused this financial crisis to begin with. They continue to take home huge salaries, stock options, bonuses, and so on. I read how some of them have multiple houses, while I soon face losing the one house that I own.

Their pay practices MUST be reformed, so that they do not have the financial incentive to cause this sort of crisis again. They must be held accountable, and their actions must not let this sort of crisis happen ever again.

Thank you for your consideration, Greg Bryant

http://www.sec.gov/comments/s7-12-11/s71211-241.htm

Subject: Comments for File Number S7-12-11

C. From: Joseph Spector

May 23, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again. I was lured into getting a $250,000 mortgage in 2005 I couldn't afford by an economic system that said not only that home prices would never fall, they would only level off, but if people just graduating college like myself should hurry and buy or we may get priced out of the market. Also, financial advisers at the time said to extend yourself a little further than you were able to since it was such a good investment. Come to find out within a year after I had purchased a home I couldn't afford and since the value dropped so rapidly, I was stuck in it for 30 years. Then the government bailed out the banks and left the homeowner hanging so in order to stay afloat I used readily available credit cards and student loans to supplement my income, incurring massive debt. For years I stayed current on my mortgage while sinking further and further into debt. Finally when I maxed out all my options, I tried to start working with the bank, including applying to government "assistance" programs like the Making Homes Affordable Program. Amazingly, the limits were so strict and unreasonable I didn't qualify for anything. I tried to work with government and the bank to stay current and work something out that would be beneficial to everyone but once again the system failed me. I was advised, by the bank and the government that I had to be late on payments before they would work with me. Eventually I did and eventually had to start foreclosure hearings before they finally approved my short sale for $90,000, after 20 months of constantly resubmitting "lost" and outdated personal information. To summarize it was absolutely the most stressful thing in my life and I wouldn't wish it on anyone.

Wall Street greed and outrageous pay practices were a major cause of the collapse since the drive to get more and more mortgages drove everyone to take advantage of the inexperienced public. One way to change the incentives so they don't collapse our economy again would be to delay the 18

bonuses for several years, at least five or seven. That way, we'll know if the loans they made in year one remain good. In the bad days, bankers paid themselves on the volume of loans (mortgages) they generated, not on their quality. Or better yet, why not limit executive pay, so unbridled greed doesn't take over again, creating the potential for any regulation that's put in place to be circumvented in the future. Regulate the entire mortgage/finance/investmen industry so people aren't taken advantage of. Create and enforce standards for mortgage approval. Force banks to work with people who are in trouble. The most important thing you could ever do is to prosecute those responsible for this enormous crime against millions of people!

Thank you for considering my comment,

Joseph Spector

http://www.sec.gov/comments/s7-12-11/s71211-239.htm

Subject: Comments for File Number S7-12-11

D. From: Charla Hatton

May 23, 2011

The economic collapse of 2008 affected us all. In our case, the housing market collapse coincided with my husband's heart attack, and we lost our home. After a lifetime of never even being late on a payment for anything, much less missing one, we had to declare bankruptcy. Our son-in-law lost his job, and our grandson can't find his first job after completing a community college certificate program.

We have fended off bitterness, but we feel justifiably angry that the system which broke so calamitously and caused so much pain might be allowed to survive intact. Surely it's time to put in place reforms that will create disincentives for recklessness.

I am no expert, but I trust you are. The apologists who claim that salaries and bonuses must be obscenely high to attract the best and brightest are an offense to moral people everywhere. The implication is that money and only money motivates bright people. Please prove them wrong. You're bright, and I trust you to find a way to rebalance the system so that the vast majority of us don't suffer when a rapacious few play fast and loose with our economy.

Thank you for listening...and for doing the right thing.

Charla Hatton

http://www.sec.gov/comments/s7-12-11/s71211-226.htm

Subject: Comments for File Number S7-12-11 19

E. From: Mary Jo Carey

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again. I am writing to let you know what has happened to me and my loved ones and how it has affected me. I was a Loan Officer in a small brokerage in my home town of Taos, NM. My plan was to retire when I turned 65. The good news is that the entire world of mortgages fell apart, shortly before I had planned on retiring anyway. The bad news is that I was retiring and hoping to live on Social Sec. and small withdrawals from my savings which were diversified in stocks, bonds, mutual funds and CD's. I watched my portfolio slip (yet again, it did so in 2000 etc.) by at least one third. THE DAY WE PRIVATISE SOCIAL SECURITY WILL BE THE END OF THE ELDERLY. MOST OF US WILL DEPEND UPON WELFARE AND CHARITABLE HAND OUTS. WE WILL LOSE OUR HOMES, CARS AND OUR PURCHASING POWER. I retired a few months early because I got dressed every morning, went to work, and tried so hard to make some mortgages happen. Almost all of my clients (purchasers and refinancers) made it just about to Closing, when the lender either disappeared or changed the rules. It was so discouraging. Day after day going to work and trying to make something happen. But, you see, I couldn't because the big boys from B of A, Countrywide, Indy Mac etc. etc. were so greedy and selfish and dishonest they screwed everyone under them. I have absolutely no sympathy for these disgusting people! I have had fantasies of meeting them as they come out of a meeting and squirting a paint ball at them. I am sure there are people who share these sorts of fantasies. Why? Because they have left the PEOPLE between a rock and a hard place. AND they obviously don't care or they would not

accept the bonuses. You know, I probably hold stock in some of these despicable companies, and I have my mortgage with one of them. BUT I am helpless as far as changing mortgage companies (I don't trust any of them and don't want any of them to profit from my interest payments.) And, of course, I am now living on Soc. Sec. and not touching my dwindled, slowly recovering investments and would not qualify for a refinance.

My son and my daughter – in – law are teachers. They are excellent teachers. My son worked hard, raising children, teaching etc. and somehow managed to get his Masters Degree. The last few years, thanks to the economy and the fact that the State revenues are way down, my son has had his salary lowered…thanks to all his experience and education. And yet, these bankers and Wall Street big boys are getting larger and larger bonuses, and their profits are up even though no regular citizen can get a loan. THERE IS SOMETHING TERRIBLY WRONG WITH THIS SCENARIO!

As a person who refuses to take all this lying down, all I can do is pull my accounts from the big banks and go to the local banks. I can try to pay larger principal on my mortgage so the banks don't get as much interest from me. I worry every day about my future and my life savings. I have cancelled my Citi credit card because Citi is one of the worst! But all of the above are pathetic. The middle class is slipping away. Soon we will have no money to buy goods or services. My supplemental health insurance has risen, as has my home insurance. All of these slight raises in prices (food and gas too!) have brought most of us to our knees. I guess the ultimate revenge will be that no one will be able to buy anything. In my small town I have seen many small businesses close. No one is buying anything. The Consignment Clothing shops are doing OK.

My goal is to spend no extra money (restaurants, movies, airline tickets, plants…all those "frills"). I am sure I am not alone. And so, I ask you to consider the future calamity of no one of the middle class able to purchase anything, except the bare essentials. If something isn't done to curb the abject greed of Wall Street and Big Banks the United States will be filled with angry, powerless people! I watch the revolts in Egypt, Tunisia etc. and think…that will be us someday. We are run by rich guys. 20

Our political arena is a joke; run by rich guys. (Yes, I vote every time.) If any of them call themselves Christians I would laugh out loud at their hypocrisy. I don't know how they can sleep at night. They probably have a noise machine that says "Ca Ching, Ca Ching".

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be for regulators to use a *safety index* for incentive compensation, instead of a profit index.

Currently, most bankers receive stock options. So if they can generate more profits, the stock price goes up, and their options become more valuable. This is insane! This will just cause another collapse. Instead, what if they used the bank's bond price, which measures the overall ability of the bank to repay its own debt? Another measure of bank stability is the spread on credit default swaps (the insurance-like policies that are essentially bets, where one gambler bets with another that a particular firm will fail). The closer a bank comes to failing (such as in failing to pay of its bond debt), the bigger the spread on credit default swaps. Something MUST be done. Something that has taken us, the tax payer, into account. There should

be no special audience with the Wall Street boys. No one ever asks us to come and testify or plea our case in front of you! Please do something....SOON!

Thank you for considering my comment,

Mary Jo Carey

ttp://www.sec.gov/comments/s7-12-11/s71211-216.htm

Subject: Comments for File Number S7-12-11

F. From: Helena Liber

May 21, 2011

I'm writing because I have been affected by the economic collapse of 2008, and I don't want it to happen again. I became unemployed and unable to find work in 2008. When my savings ran out I became homeless. The stress of homelessness triggered mental health issues and now I am on SSI. I am still homeless, but looking for housing. Housing is impossible to afford on the amount of SSI.

When I hear of people on Wall Street getting millions and billions of dollars, I get a little bitter. There is not enough money for homes for the homeless or food for the hungry, but people on Wall Street take millions and billions for themselves. Does any one person or family ever need that much for just themselves while others live in the street and/or go hungry?

Wall Street greed and outrageous pay practices were a major cause of the collapse. Wake up and change the way things are done. Maybe you can't solve all the problems of this world, but why add to the woes of others out of greed and selfishness? 21

One way to change the incentives so they don't collapse our economy again would be to delay the bonuses for three, five or more years. That way, we'll know if the loans they made in year one remain good. In the bad days, bankers paid themselves on the volume of loans (mortgages) they generated, not on their quality.

Thank you for considering my comment,

Helena Liber

http://www.sec.gov/comments/s7-12-11/s71211-211.htm

Subject: Comments for File Number S7-12-11

G. From: Diane Hallum

May 21, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be to delay the bonuses for three, five or more years. That way, we'll know if the loans they made in year one remain good. The focus should be on quality, not quantity.

Thank you for considering my comment. There needs to be greater clarity in gauging banks and investments firms, as well as their products.

Overall, I am disgusted by what I view as total lack of moral, ethical and rational business practices that reward the banker, but offer harm to the shareholder, investor, loan holders and depositors.

Since this recent economic collapse, my own investments lost 2/3 of their value, my home is 1/2 its 2006 market value (before home prices went through the roof), and 1/4 of the houses on my street have gone into foreclosure either because of bad mortgagees, bad mortgages, or jobs that are drying up like crazy, some because banks stopped lending to any and everybody. I now live in a city where half the vacant homes have had their copper pipes, water heaters and meters stolen for scrap metal, but, because of a reduced tax base due to foreclosures and job losses, a smaller police force to respond to this growing crime. I did nothing wrong and am suffering. But, hey. . the bankers can reward themselves for a job well done. They had to work hard to NOT see the real estate bubble, the bad mortgages, the bad mortgage borrowers, the lack of mortgage paperwork, the bizarre investment vehicles, the risk of mixing banking with investing, and then to cry for a bail out and nag politicians to thwart any ideas of new regulations!!

They did everything wrong, and some how no one saw it coming?!

Diane Hallum 22

http://www.sec.gov/comments/s7-12-11/s71211-205.htm

Subject: Comments for File Number S7-12-11

H. From: Susan Byers Paxson

May 20, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again.

Because of Wall Street, our 401K was gutted.

Because of Wall Street, my son graduated a good school into a bankrupt economy. He is teaching T-ball and waiting tables for a living -- jobs for a teenager, not a college graduate.

Because of Wall Street, my husband, a free-lance musician, has seen his concerts cut back and has lost students as their parents lose THEIR jobs and can no longer afford music lessons for their children.

And because of Wall Street, I lost my job in December, and have still not managed to find another, 6 months later. Our health insurance is about to end, and at 57 I am looking at a future that appears awfully bleak.

Wall Street greed and outrageous pay practices were a major cause of this collapse. One way to change the incentives so they don't collapse our economy again would be to delay their bonuses for several years, at least five or seven. That way, we'll know if the loans they made in year one remain good. In the bad days, bankers paid themselves on the volume of loans (mortgages) they generated, not on their quality.

Thank you for considering my comment,

Susan Byers Paxson Dorchester, Mass.

http://www.sec.gov/comments/s7-12-11/s71211-193.htm

Subject: Comments for File Number S7-12-11

I. From: Lynn A.

May 20, 2011 23

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again.

I'm shocked and appalled that our government continues to allow these crooks to operate "business as usual." They are a menace to society and threaten economic stability and threaten capitalism with their greed. I have lost all confidence in the markets and in my ELECTED officials.

My brother-in-law lost his business as a building contractor. He and my sister lost their home and at 42 years old my brother-in-law joined the ARMY just so he could support his family. As a result, my 19 year old niece was left in one state to go college on a scholarship, but struggled daily with perceived loss of family. My nephew, only 10 years old, has been moved from school to school as the family must travel where the military sends them. Now I understand this was the choice they made, but being ethical and stoic people they did not rely on the government for support without giving back. Unlike the wall street "professionals" have who continue to line their pockets and bask in the sunlight of uber plush spas and resorts. All this while my BIL risks his life to fight for this country, and those A-holes freedoms.

Due to the housing crisis, my friend who was an ethical lender, developed cancer and to support his family had to work three jobs. While battling his disease, he went from job to job sleeping in his car on the street for an hour or two before the next work hour began. All this while wall street basks in the sun....

I myself worked for a bank and lost my job. As a result, I had to go back to school at 37. As a direct result of the failure of our government to protect its citizens, my family too was split apart. A single mom, I had to send my child to live with my parents in a different state while I also begged and borrowed, from friends, not the government. Why is it that as a product citizen of this country with morals and ethics I couldn't get a bailout? Why do I pay more in federal taxes than GE? I am now a nurse and HELP people. What if I decided to act like one of these crooks? That's a dangerous thought. But yet I have to live with this anger and fear??? WHY? There are countless stories I could tell of people I personally know who have been robbed of their savings and jobs, but I think you get my point.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be to delay the bonuses for three, five or more

years. That way, we'll know if the loans they made in year one remain good. In the bad days, bankers paid themselves on the volume of loans (mortgages) they generated, not on their quality.

Thank you for considering my comment,

Lynn A.

http://www.sec.gov/comments/s7-12-11/s71211-185.htm

Subject: Comments for File Number S7-12-11 24

J. From: Jean-Marie Woods-Ray

May 19, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again. My husband lost his job due to the financial collapse. I was pregnant with my second child and had to return to work prematurely in order for our family to have a steady paycheck and to continue to receive benefits. It is disheartening to see the same people who destroyed our economy reaping in large bonuses and yet the average person is still struggling. . I have watched my friends who have masters degrees apply for food stamps

As a teacher, it is terrible to now be blamed for collapsing the economy. I chose a profession that would enable me to reach out to children and to educate them. I wanted to excite the next generation to seek out knowledge and to understand the world around them. I understood from the start that I would never make a great deal of money but I would have benefits and job security. I have a degree from an Ivy League school. I have the potential to earn a great deal more money instead I chose a profession that I love. However, since politicians place me as the blame instead of the Wall Street Banksters, it up to you to ensure that this type of collapse never happens again. The American people bailed out Wall Street and the Banks yet the average person continues to suffer. You must ensure that legislation that has been created is followed and people are protected. Morality and accountability, not greed and deceptive practices, must become the norm. One way to change the incentives so Wall Street doesn't collapse our economy again would be for regulators to set up a way for shareholders to grab back ill-gotten gains. If it turns out that the profits in a given year were built on shoddy practices that become clear in the out-years, those bonus payments should be forfeited.

Thank you for considering my comment,

Jean-Marie Woods-Ray

http://www.sec.gov/comments/s7-12-11/s71211-180.htm

Subject: Comments for File Number S7-12-11

K. From: Mara Schoner

May 19, 2011

I’m writing because my family and I were affected by the economic collapse of 2008, and we don’t want it to happen again. We have a business where we review small businesses for homeowners. I do the sales and I can tell you that in the fall of 2008 it was scary out there. People I called were saying to me they were losing their homes, their businesses, everything. We nearly lost our business in 2008. Next came my Dad who lost a third of his retirement. He has downsized considerably and is lucky to be able to live on a downsized budget. Then came my sister who lost her job as an environmental scientist after 20 years in the industry. She spent nearly 2 years unemployed, sold her condominium to help support her two teen boys, went through every penny 25

of her savings and her equity from her apartment, moved in with a friend and finally got a job as a secretary about a year ago. She is 55. Not a great time to be facing an uncertain future. The stories go on and on. Last week I was at the house of a friend of my son’s. The mother was hosting a lunch for the kids in his Spanish class for fun. I complimented her on her house. She had apparently just lost it. B of A had sold it by accident - and they even admitted this - to Fannie Mae, while she was in the process of refinancing. She is a single mom and does not have the funds to hire an attorney to fight this, so she is trying desperately to reason with the bank. REASON with a BANK?

What has this country come to? It makes me sick. Bankers making a killing off of the people who pay the taxes that made them whole.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don’t collapse our economy again would be for regulators to use a *safety index* for incentive compensation, instead of a profit index.

Currently, most bankers receive stock options. So if they can generate more profits, the stock price goes up, and their options become more valuable.

Instead, what if they used the bank’s bond price, which measures the overall ability of the bank to repay its own debt? Another measure of bank stability is the spread on credit default swaps (the insurance-like policies that are essentially bets, where one gambler bets with another that a particular firm will fail). The closer a bank comes to failing (such as in failing to pay of its bond debt), the bigger the spread on credit default swaps.

Thank you for considering my comment,

Mara Schoner

L. From: Marcia Segura

May 19, 2011

I’m writing because my family, my friends, and I were affected by the economic collapse of 2008, and we don’t want it to happen again.

My mother and father lost over $250,000 in their retirement funds. They’re middle class people and had been saving for decades. My mom may never be able to retire now.

The collapse happened about a month after I finished graduate school with an MA in clinical psychology. In order to get a license to practice in my state, CA, you have to do 3000 hours of internship- and 95% of the internship venues pay nothing, not one cent. Those that do pay barely pay minimum wage. Because of the economic collapse my dear friend who graduated with me lost almost $500,000 in stocks. He had planned to use that money to allow himself to complete his internships while still being able to feed his wife and child and pay his mortgage. Since he lost all 26

that money he has been forced to give up his dream of being a therapist and seek a job back in the industry he was trying to leave. He has still not been able to make any progress towards his internship hours and all of the time, love, and money he put towards his education may be totally lost.

Although I did not lose any money in the financial crisis (because I never had any) I had planned to leave my job as a paralegal and get a job as a waitress in a fine dining restaurant that would pay enough for me to pay my rent and bills but allow me to work at night so I could do my internship hours in the daytime. Sadly, the financial meltdown has caused many fine restaurants and SF to close and those that are still open are either not hiring or simply don't get enough customers for the wait staff to make any money. I have also been unable to pursue my dream of becoming a therapist and fell into a deep depression when I relaixed that the $100,000 of financial aid I took out was coming due. I'm currently making payments of $500/month on the same income I had before.

I've not had a raise since 2007 because the law firm I work for has lost over half of our clients due to the fiancial crisis. Our clients are small to medium sized nonprofit businesses. When nonprofits have to cut their budgets they cut off their attorneys and the boards and Executive Directors start doing their own legal work. This is not only bad for their attorneys and their attorney's taffs (like me) but it's bad for the nonprofits themselves because,as I'm sure you know, you can get into a lot of trouble doing your own legal work.

I am finally ready to take the plunge and cut back my hours at my paid job to begin an unpaid internship with the SF Unified School district providing free therapy to middle school children. I will have a hard time making ends meet even though I will be working over 60 hours per week between my internship and my paid work. This isn't just bad for me, it's bad for the public schools and poor children. When people such as myself and my friend, who would normally be able to provide this therapy for free to the schools and to low-income children are unable to do so in large numbers (as is the case now) the schools and the children suffer.

Everyone is effected. All of this is connected. I do not believe that it is reasonable to grant financial industry executives outlandish pay, obscene bonuses, and truly ludicrous "retirement" bonuses when they personally ruined this many lives. It's obscene, truly obscene. If the companies that hire these executives are unwilling or unable to tie executive pay to executive performance then I demand that Congress step in.

As a pre-licensed therapist I can promise you that any behavior that gets rewarded WILL BE REPEATED. There is no wiggle room in that statement. It's not up for debate. It's been proven 10,000 times in rigorous scientific studies. If you get paid millions of dollars in salary and tens of millions in bonuses even though your unethical business practices have tanked the world's economy then you have

the incentive (10's of millions of dollars of incentive) to continue those same unethical practices. To eliminate bad behavior one must remove ALL rewards for that behavior and institute punishments that are: swift, certain, and strong. At this point swift and certain are out the window- but we can at least make the punishment strong. Please.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be for regulators to use a *safety index* for incentive compensation, instead of a profit index. 27

Currently, most bankers receive stock options. So if they can generate more profits, the stock price goes up, and their options become more valuable.

Instead, what if they used the bank's bond price, which measures the overall ability of the bank to repay its own debt? Another measure of bank stability is the spread on credit default swaps (the insurance-like policies that are essentially bets, where one gambler bets with another that a particular firm will fail). The closer a bank comes to failing (such as in failing to pay of its bond debt), the bigger the spread on credit default swaps.

Thank you for considering my comment,

Marcia Segura

http://www.sec.gov/comments/s7-12-11/s71211-151.htm

Subject: Comments for File Number S7-12-11

M. From: Amy Anderson

May 19, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, which should never have happened, and which should never happen again as long as the banks and the SEC are kept in check.

My mother, depending on her supposedly safe investments, entered an expensive retirement center where she and her husband would be taken care of for life, because she didn't want to end up being a burden on her children. Thanks to the crash, they may not be able to stay there for much longer, and because they don't actually own their apartment, may end up poor and a burden on their children after all, and none of us have enough resources to help them.

One of my brothers has the severe form of MS and cannot afford the treatments he needs which would lesson his pain and discomfort, and which Medicare will not pay for. I myself am disabled and suffer similar circumstances. I had a part-time job which kept me from being totally impoverished, but because of the crash I was laid off 16 months ago and have been forced to max out my credit cards because of the scarcity of Section VIII housing vouchers. Now I finally got a voucher, but am told that I can "only afford" so much, which is not enough to rent the kind of place that I desperately need because of my special needs as a disabled person. I cannot find another part-time job that I'm physically capable of doing because jobs are so terribly scarce. Some of my basic needs continue to be unmet.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be to delay the bonuses for three, five or more years. That way, we'll know if the loans they made in year one remain good. In the bad days, bankers paid themselves on the volume of loans (mortgages) they generated, not on their quality. 28

Please understand that our "democracy" is in a shambles thanks to corporate influence, that the banks and other large corporations don't care about the citizens of the United States (as has been amply demonstrated by their actions in the past and since the bailout), and that we must do everything in our power to keep them in check. Right now THEY OWE US--not the other way around.

Thank you for considering my comment.

Amy Anderson

http://www.sec.gov/comments/s7-12-11/s71211-19.htm

Subject: File No. S7-12-11

N. From: Arline DeMaio

May 16, 2011

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again.

As a patriotic American I will not go easy to my death. I will fight with my last breath for truth, justice and the American way. I grew up in the shadow of Lady Liberty. 30 years I worked for a corporation that I believed would keep their word. As a condition of my retirement I was made to sign things that violated my constitutional rights as an American. They basically said they own our brains.

I'm writing because my family and I were affected by the economic collapse of 2008, and we don't want it to happen again. I'd like you to know what my family has suffered. My 401k was destroyed by Wall Street practices. A company called Ardent sold me a mortgage on my house. They added exorbitant fees to the loan. They told me I'd be able to change the arm mortgage for a fixed mortgage. They should not be able to charge outlandish interest rates to people who can least afford it but continue to do so. They told me my mortgage would be sold to another bank. Next Ameriquest had our mortgage but they disappeared and turned our payments over to America Services who told us they had no idea who held the mortgage. Wells Fargo kept sending us offers of personal loans to make mortgage payments in the exact amount we needed to pay them. We tried getting another broker to refinance us. America services lied to them saying we had not paid them money they were holding in a separate account that was never listed on the statements we were sent. We lost our chance to refinance. We hired a lawyer who told us they only way to find the Mortgage holder was to stop making payments. American Services jumped in and prepaid our taxes and raised the monthly payments beyond our ability to pay. Ardent finally identified them self as holder of the Mortgage and we found out America Services, Ameriquest, Ardent and Wells Fargo are one in the same. A group of thieves who's intention it was to fleece us of every cent they could ring out of us; calling us telling us to borrow from relatives and friends. We've been fighting them for 4 years. 29

They claim they are trying to offer us a modification I'll believe that when I see it. We've been back to the court 9 times at 2 to 3 month intervals because they and the law firm representing them can't get their paperwork straight. Currently they pay all taxes and insurance. My children lost their jobs. My grandson attending college on a grant and student loans has been unable to find part-time employment. Our lives are a never ending nightmare. It' been nine years of fighting with so called bank Wells Fargo. The deck has been stacked against us from the beginning where is the justice in this country. The bankers and their lawyers break all the rules while the public suffers. It's not just us. It's our extended family, our neighbors. Those in congress try to end unemployment. I paid into it for over 30 years never collecting a dime. I think it's only fair that those who need it now get the help I helped pay for. The rich, the corporations and the bankers don't deserve a free ride at our expense. This country was built on the backs of the working class who are being paid in empty promises. Five major affiliated banks are responsible for this mess and should be the ones paying the bill. Not workers, homeowners, seniors, children, students and taxpayers. Seniors are supporting both children and grown grandchildren like me.

Wall Street greed and outrageous pay practices were a major cause of the collapse. One way to change the incentives so they don't collapse our economy again would be for regulators to use a *safety index* for incentive compensation, instead of a profit index.

Currently, most bankers receive stock options. So if they can generate more profits, the stock price goes up, and their options become more valuable.

Instead, what if they used the bank's bond price, which measures the overall ability of the bank to repay its own debt? Another measure of bank stability is the spread on credit default swaps (the insurance-like policies that are essentially bets, where one gambler bets with another that a particular firm will fail). The closer a bank comes to failing (such as in failing to pay of its bond debt), the bigger the spread on credit default swaps.

Thank you for considering my comment,

Arline DeMaio

http://www.sec.gov/comments/s7-12-11/s71211-18.htm

Subject: File No. S7-12-11

O. From: Jonathan Netherton

May 16, 2011

I'm writing because my family and I were affected by the economic collapses of 2000 and 2008, and we don't want it to happen again.

After turning my grandfather's pension into a 401(k), his company invested it in a mutual fund with tech stocks and derivatives. After the crash of 2000, my whole family lost everything. Part of it was 30

my college fund. He died old, broken and alone. I haven't gotten the chance to go to a college long enough to get a degree. This happened to my father's savings account as well, destroying all he had managed to build up for himself after returning home from Vietnam. He turned to cocaine to ease his depression and left my family. These people have destroyed my family and any future my family could've provided me.

One way to change the incentives so Wall Street doesn't collapse our economy again would be for regulators to set up a way for shareholders to grab back ill-gotten gains.

If it turns out that the profits in a given year were built on shoddy practices that become clear in the out-years, those bonus payments should be forfeited.

Thank you for considering my comment,

Jonathan Netherton

APPENDIX III: Letter from organizations

July xx, 2016

Re: Proposed implementation of Wall Street incentive compensation rules as provided under Dodd-Frank Sec. 956

To Whom It May Concern,

We appreciate the opportunity to comment on the proposed rule regarding incentive compensation in the financial industry. This proposal is an improvement over the 2011 version. We strongly support measures to extend compensation deferral requirements beyond top executives to all employees who could put large financial firms at risk, as well as the improved requirements for internal governance of bonus pay and the limitations on inappropriate pay practices such as volume-based compensation.

However, we remain deeply concerned that loopholes in the regulation will allow a reckless Wall Street bonus culture to continue, putting taxpayers and the broader economy at risk. The specific issues that most concern us are as follows:

1. Requirements regarding the deferral of bonuses are too weak

The proposal requires 60 percent of bonus pay to be deferred for only four years for the most senior executives at the largest banks, with even lower levels of deferral for other employees whose activities could put the financial institution at risk and executives at midsize banks. The proposal also allows pay to vest in equal (pro rata) shares each year. Thus, even the very highest-ranking executives could receive 70 percent of their pay within two years and 85% within three years. To curb short-term, reckless behavior, deferral periods must be significantly longer, ideally over five years to cover the typical length of a credit cycle, with cliff vesting.

2. The proposal gives management too much discretion over clawbacks and other adjustments to pay for misconduct

The Dodd-Frank law requires regulators to ban forms of incentive compensation that induce inappropriate risk-taking. Yet even in a circumstance where such risk-taking or misconduct is clearly found, this proposed rule requires only that companies "consider" reducing bonus pay. Firms are required to have "clawback" policies for pay already awarded, but again, implementation is left to management discretion. Such policies should be mandatory and firms should be required to publicly disclose the individuals subject to the clawback and the amounts involved. The triggers for clawbacks should also be stronger and cover systematic failures of supervision within the individual's sphere of managerial responsibility, not simply actions of the single individual in question. We also ask that the proposal require that boards of directors identify a class of senior executives whose pay will be subject to being clawed back to satisfy regulatory penalties imposed on the firm.

3. Restrictions on stock options should be strengthened.

We appreciate the effort to discourage use of stock options, which can be especially problematic in encouraging short-term, reckless behavior. However, it would be more effective to either ban stock options entirely or limit them to no more than 15 percent of total compensation. The current proposal to limit options as a percentage of deferred incentive compensation could serve as an incentive to provide excessive amounts of other forms of compensation.

4. Hedging of incentive compensation should be banned for individuals as well as the firm.

Bonus deferral will not be effective in reducing inappropriate risk-taking if employees can use hedging strategies to reduce their risk to poor company performance. Because the current proposal does not limit hedging of bonus pay by individual employees, only by the bank itself, it will not be effective at preventing compensation hedging. The Bank of England already requires the banks it supervises to maintain policies that prohibit individual hedging, and several major U.S. banks have voluntarily instituted such anti-hedging policies. This rule should do so as well.

Unless these issues are addressed, the Wall Street bonus culture will continue to create incentives for inappropriate short-term risk-taking that could create disastrous long term consequences for society.

Sincerely,

Initial signers:

Americans for Financial Reform

AFL-CIO

Institute for Policy Studies, Global Economy Project

Public Citizen