discussed above, the Board has determined to deregulate this issue and allow credit unions to structure their own incentive plans. This is provided for in Exception (C) in the final rule, which simply provides that a federal credit union may pay an incentive or bonus to a non senior management employee in connection with a loan made by the credit union. This includes incentives for any activity connected with lending, including processing and collecting loans, making credit decisions, and selling credit life, credit disability, and mechanical breakdown insurance. The only limitation is that the board of directors of the credit union must have established written policies and internal controls in connection with the incentive or bonus and must monitor those policies and controls annually.

The final rule's requirement of annual monitoring of policies and controls is a change from paragraph (8)(iv) of the proposed regulation, which required quarterly monitoring. Thirteen commenters said that quarterly review was too frequent, arguing that it would put the board of the credit union in the role of micro-managing the credit union. In response to the comments, the change was made. The Board notes, however, that the supervisory committee, or internal auditor in larger credit unions, should consider reviewing the effectiveness of incentive pay policies and controls more frequently than annually.

Paragraph 8(iv) of the proposed rule also required that documentation of the monitoring be made available to the supervisory committee and NCUA. There was some confusion about this requirement. Several commenters asked whether documentation should be made available to examiners during exams or sent to NCUA. There also was a question as to whether state-chartered credit unions should provide documentation to the state regulator. The Board has deleted this requirement as unnecessary. Under the final rule, a credit union wishing to provide incentive pay must establish written policies. These are by definition part of the books and records of the credit union, which are open to the supervisory committee of the credit union and to NCUA examiners.

The preamble to the proposed rule discussed a number of policy changes the regulation would make. It first noted that the current regulation had been interpreted to permit a credit union official or employee to receive compensation for acting as an agent in the sale of property securing a loan made by a credit union, on the rationale

that listing or selling a property on which a loan is granted is not included in underwriting, insuring, servicing, or collecting the loan. Since listing or selling property financed by the credit union *is* "in connection with" the loan, however, the proposed rule would prohibit compensation for such activity.

The preamble also noted that the current regulation had been interpreted to prohibit a credit union official or employee from, for example, owning an insurance company that sells car insurance to members who finance their cars at the credit union. An argument had been made, however, that the regulatory language prohibited the receipt of compensation in connection with insuring the loan but not in connection with insuring collateral securing the loan. The preamble stated that NCUA was concerned about the opportunity for credit union officials and employees to steer members to a particular insurance agency and that the proposed regulation therefore would prohibit all officials and employees from receiving compensation for insuring collateral securing a loan made by the credit union.

A number of commenters stated that the prohibition against receiving compensation for outside activities might restrict members from volunteering to serve on a credit unions board. The NCUA Board shares that concern and has determined to permit volunteer officials and non senior management employees of a federal credit union, and the family members of officials and all employees, to receive compensation from an outside party for an activity performed outside the credit union, as long as neither the credit union nor the official, employee, or family member refers any person to the other party. Thus, the borrower's receipt of a loan from the credit union should be unconnected to his or her participation in the outside activity of the official, employee, or family member. The Board believes the prohibition should remain in effect for senior management employees in order to prevent situations where subordinate employees feel pressure to make loans to customers of the outside business interest of the senior management employee. The exception will ensure, at the same time, that NCUA's rules do not interfere with the livelihoods of volunteer officials, non senior management employees, such as parttime employees, and the family members of officials and employees. This is set forth in Exception (D) of the final rule.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this rule will not have a significant impact on a substantial number of small credit unions (those under \$1 million in assets). Accordingly, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the requirement to establish a written policy in connection with the payment of lending-related incentives does constitute a collection of information under the Paperwork Reduction Act. The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. NCUA estimates that no more than 1000 federally insured credit unions will seek to implement lending-related incentive compensation policies. It is NCUA's view that the time a credit union spends developing a responsible policy is not a burden created by this regulation but rather is necessary to the safe and sound payment of lending-related incentives. The paperwork burden created by this rule is the requirement that such policy be put in writing. NCUA estimates that it should take at most one hour to put an incentive policy in written form. Therefore, 1000 total burden hours are required to comply with the collection requirement.

The NCUA Board invites comment on: (1) Whether the collection of information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) The accuracy of NCUA's estimate of the burden of the collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information. Send comments to Suzanne Beauchesne, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428. Comments should be postmarked by December 4, 1995.

After 60 days, NCUA will submit the paperwork requirement to OMB for review under the Paperwork Reduction Act and will publish a notice to that effect in the Federal Register. NCUA will also publish a notice in the Federal Register once OMB takes action on the submitted request. Until NCUA receives an OMB control number indicating approval of the requirement that