

**Supplementary information to the Rule.**

**Background.** Effective July 28, 2013, RCW 31.12.365 was amended to authorize credit unions to pay reasonable compensation to their directors and supervisory committee members. This rule interprets the new authority.

**Exception.** [replaces existing paragraph entitled "Exception" on page 1 of Draft #2] The rule is not intended to address or affect payments (advancement, reimbursement or direct payment) to or on behalf of directors and supervisory committee members for travel and training costs, insurance coverage, or gifts of minimal value, that are permitted under separate authority. These items are expressly excluded from the definition of compensation under the rule, even though they may be taxable income to the recipient under federal law. Credit unions should consult with tax professionals for advice to ensure their practices comply with Internal Revenue Service requirements, including reporting on the IRS Form 990.

**WAC 208-\_\_ Reasonable Compensation.**

**(1) Authority to Compensate Directors and Supervisory Committee Members.** Subject to the provisions of this section, a credit union may pay compensation to its directors and supervisory committee members for their service as directors and supervisory committee members that is reasonable in accordance with subsection (4).

**(2) "Compensation" Defined.** As used in this section:

- (a) "Compensation" means anything of value that is both:
  - (i) Given to a director or supervisory committee member in exchange for services performed as a director or supervisory committee member, and
  - (ii) Required to be reported to the Internal Revenue Service as income.
- (b) **Notwithstanding subsection (2)(a),** for purposes of this section, the term "compensation" excludes:
  - (i) Any advancement to or reimbursement of a director or supervisory committee member or direct payment of expenses on behalf of a director or supervisory committee member;
  - (ii) Payment for insurance coverage of a director or supervisory committee member or for incidental services to a director or supervisory committee member, available to employees generally;
  - (iii) Payment of indemnification to a director or supervisory committee member and related insurance coverage for directors and supervisory committee members; and
  - (iv) Gifts to a director or supervisory committee member of minimal value.

**(3) Controls; Review.** A credit union shall implement and maintain appropriate controls to ensure that compensation is reasonable and that such compensation does not lead to material financial loss to the credit union. Such controls shall include, without limitation, the following:

- (a) Prior to its initial determination to pay compensation to directors or supervisory committee members, or to increase the schedule for payment of such compensation, a credit union's board of directors shall in good faith review all policies related to compensation, and shall review the amount of compensation provided to the directors and supervisory committee members.
- (b) The review set forth in subsection (3) (a) must: (i) Contain a written determination that compensation paid to the directors and supervisory committee members is reasonable, including a discussion of the factors considered in making such determination; and

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Deleted: (i) . Payment, by advance or reimbursement to a director or supervisory committee member, or direct disbursement to a third party for reasonable travel costs of a director or supervisory committee member in accordance with written policies and procedures, including document requirements established by the board of directors;¶

<#>(ii) . Payment of reasonable travel costs for one guest per director or supervisory committee member in accordance with written policies and procedures, including document requirements established by the board of directors;¶

<#>Provision of reasonable health, accident and related types of personal insurance protection, supplied for a director or supervisory committee member at the expense of the credit union: Provided, that it meets the following requirements:¶

<#>such insurance protection is reasonable in coverage and amou... [1]

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(ii) Be included as part of the minutes of the meeting at which matters relating to compensation were deliberated and voted upon by the credit union's board of directors.

**(4) When Compensation Is Reasonable.** Compensation is reasonable if it meets all of the following criteria:

- (a) It is proportional to the services provided to the director or supervisory committee member;
- (b) It is reasonable considering the financial condition of the credit union; and
- (c) It is comparable to compensation paid by organizations of a comparable size, geographic location, and operational complexity.

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**(5) Disclosure to Credit Union Membership.** (a) A credit union shall annually disclose to credit union members prior to its annual membership meeting the compensation provided to directors and supervisory committee members in the prior calendar year and as scheduled for the current calendar year.

(b) The disclosure to a credit union's members:

- (i) Shall be in writing and conspicuously set apart from other information provided to members;
- (ii) Shall include the names of all the directors and supervisory committee members receiving compensation and the amount of compensation paid to each in the prior calendar year;
- (iii) Shall include the schedule for compensation to be paid to directors and supervisory committee members in the current calendar year; and
- (iv) Shall be included in the notice of the annual meeting of the members, a separate mailing to members, a periodic statement of account to members, a periodic publication to members, posted electronically on a credit union's website, or through an email publication to members.

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**(6) Notice to Director.** (a) A credit union shall provide written notice to the Director of Credit Unions of its intent to adopt a policy to compensate directors or supervisory committee members or to increase its schedule for payment of such compensation at least sixty (60) days before adopting such policy or schedule.

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(b) In providing notice to the Director of Credit Unions, a credit union shall provide any additional information as required by the Director of Credit Unions.

**(7) Enforcement Authority of Director; Prohibition.** (a) The Director may prohibit or otherwise limit or restrict the payment of compensation to directors or supervisory committee members if, in the opinion of the director, the payment of compensation has or is likely to have a materially adverse financial effect on the credit union.

(b) The Director may also prohibit or limit compensation if a credit union fails to comply with this rule.

(i) Payment, by advance or reimbursement to a director or supervisory committee member, or direct disbursement to a third party for reasonable travel costs of a director or supervisory committee member in accordance with written policies and procedures, including document requirements established by the board of directors;

(ii) Payment of reasonable travel costs for one guest per director or supervisory committee member in accordance with written policies and procedures, including document requirements established by the board of directors;

Provision of reasonable health, accident and related types of personal insurance protection, supplied for a director or supervisory committee member at the expense of the credit union: Provided, that it meets the following requirements: such insurance protection is reasonable in coverage and amount; the same protection is offered to its employees; the coverage is limited to areas of risk including accidental death and dismemberment, to which the director or supervisory committee member is exposed by reason of carrying out the authorized duties or responsibilities of a director or supervisory committee member for the credit union; and the coverage must cease immediately upon the insured director or supervisory committee member leaving office, without providing residual benefits other than from pending claims, if any except to the extent a credit union must comply with federal and state laws providing departing directors or supervisory committee members the right to maintain health insurance coverage at their own expense;

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director or supervisory committee member that would be considered