



## O.M. Financial Split Dollar SERP Plans **Exempt from NCUA Golden Parachute Rule**

Unlike banks and other for-profit competitors, credit unions cannot offer their key personnel equity-based incentives, such as stock options, stock appreciation rights or restricted shares. Consequently, credit unions rely on tools such as deferred compensation plans and split dollar life insurance-funded supplemental compensation plans to provide additional incentive compensation to their senior management.

O.M. Financial's collateral assignment split dollar executive compensation plan is the best choice for credit unions looking to attract and retain top managerial talent. Unlike traditional deferred compensation plans, where the investments held to fund the eventual executive benefit remain subject to claims of all of the employer-credit union's creditors, O.M. Financial's plan makes the executive (and not the credit union) the owner of a secure insurance policy, issued by a top-rated insurer, which will over time accumulate substantial cash value, which can be withdrawn non-taxable when the executive reaches a specified age. The executive's supplemental income benefit thus is not held hostage to the future financial health of the credit union. Also, because the credit union's payment of the policy premiums is a loan, those payments will be repaid to the credit union, with interest, when the policy's death benefit becomes payable. In these and other ways, the O.M. Financial split dollar plan is better for the executive and for the credit union.

Added to these advantages is the fact that O.M. Financial's split dollar plan, unlike many deferred compensation plans, is exempt from

NCUA's recently issued "golden parachute" rule (Rule #750), under which NCUA can block financially troubled credit unions from paying executives certain types of promised benefits at the end of their employment. Under NCUA's golden parachute rule, if a federal or NCUA-insured state credit union is in "troubled condition" (defined broadly to include insolvency, conservatorship, or even just being rated 4 or 5), it is prohibited from making certain types of payments to departing employees, including in particular so-called Section 457(f) deferred compensation plans and severance payments based on individual employment agreements or severance plans, in each case where the deferred compensation or severance benefits are targeted to highly-compensated employees. However, unlike those other types of key executive benefits, NCUA has expressly exempted all split dollar plans of the type O.M. Financial offers from the golden parachute rule.

So, in addition to the many other advantages of an O.M. Financial split dollar supplemental compensation plan, including tax-exempt benefit payments and ultimate recovery by the employer-credit union of all its benefit plan costs (plus interest), senior executives receiving an O.M. Financial split dollar plan will have the assurance that if their credit union encounters financial difficulties more than a year after the plan is established, their vested plan benefits will comply with NCUA rules and will be secure.

*The above report was authored by Sherin and Lodgen, a leading executive benefits law firm and a strategic partner of O.M. Financial.*