The Director’s Guide to Working Effectively with the Supervisory Committee

CUNA
Must Know Mondays
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The contents of this presentation are intended to provide you with a general understanding of the subject matter. However, it is not intended to provide legal, accounting, or other professional advice and should not be relied on as such.
Never Forget: We Have THIS Going for Us!

• Credit Unions are a key element to the financial well being of over 95 million Americans

• Both the Board of Directors AND the Supervisory Committee have valuable roles to play within the Credit Union

• The respective responsibilities are well defined

• Both groups have the best interest of the membership in mind and want to see the Credit Union succeed
State vs. Federal

• Could be different rules depending on Charter

• You need to be aware of your state laws regarding Credit Unions and the Supervisory Committee

• FCU Act and NCUA Rules and Regulations versus state Credit Union Act and related regulations
Duties of a Director

• (a) *General direction and control of a Federal credit union.* The board of directors is responsible for the general direction and control of the affairs of each Federal credit union. While a Federal credit union board of directors may delegate the execution of operational functions to Federal credit union personnel, the ultimate responsibility of each Federal credit union's board of directors for that Federal credit union's direction and control is non-delegable.
Duties of a Director

(b)(1) Carry out his or her duties as a director in good faith, in a manner such director reasonably believes to be in the best interests of the membership of the Federal credit union as a whole, and with the care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances;

(2) Administer the affairs of the Federal credit union fairly and impartially and without discrimination in favor of or against any particular member;
Duties of a Director

(3) At the time of election or appointment, or within a reasonable time thereafter, not to exceed six months, have at least a working familiarity with basic finance and accounting practices, including the ability to read and understand the Federal credit union's balance sheet and income statement and to ask, as appropriate, substantive questions of management and the internal and external auditors; and

(4) Direct management's operations of the Federal credit union in conformity with the requirements set forth in the Federal Credit Union Act, this chapter, other applicable law, and sound business practices.
Which Laws

- State laws
- National Credit Union Administration – 12 C.F.R. Part 701 et seq.
- Charter & By-Laws – standard?
- Structure of Credit Union
  - Who Can Remove a Board Member or Credit Committee Member?
    - The Supervisory Committee
The Board is the All Seeing Eye
§715.3 General Responsibilities of the Supervisory Committee

(a) *Basic.* The supervisory committee is responsible for ensuring that the board of directors and management of the credit union—

(1) Meet required financial reporting objectives and
(2) Establish practices and procedures sufficient to safeguard members' assets.
§715.3 General Responsibilities of the Supervisory Committee

(b) *Specific.* To carry out the responsibilities set forth in paragraph (a) of this section, the supervisory committee must determine whether:

(1) Internal controls are established and effectively maintained to achieve the credit union's financial reporting objectives which must be sufficient to satisfy the requirements of the supervisory committee audit, verification of members' accounts and its additional responsibilities;
§715.3 General Responsibilities of the Supervisory Committee

(b) Specific. To carry out the responsibilities set forth in paragraph (a) of this section, the supervisory committee must determine whether:

(2) The credit union's accounting records and financial reports are promptly prepared and accurately reflect operations and results;
§715.3 General Responsibilities of the Supervisory Committee

(b) *Specific.* To carry out the responsibilities set forth in paragraph (a) of this section, the supervisory committee must determine whether:

(3) The relevant plans, policies, and control procedures established by the board of directors are properly administered; and
§715.3 General Responsibilities of the Supervisory Committee

(b) *Specific.* To carry out the responsibilities set forth in paragraph (a) of this section, the supervisory committee must determine whether:

(4) Policies and control procedures are sufficient to safeguard against error, conflict of interest, self-dealing and fraud.
The Board is responsible for the direction and control of the Credit Union.
But the SC is the watchdog of the membership!
The Role of the Board

• Ultimate Authority
• General Direction and Control
• Strategy versus Tactics
• Development of Strategic Goals
• Management and Coordination with the CEO
Role of the Supervisory Committee

- Manage outside audit process
- Verify financials and membership
- Safeguarding of members’ assets
- Effective Internal Controls
- Credit Union is carrying out the plans and following policies and procedures
- Risk profile and management
- Violations of laws, rules, regulations or bylaws
SC Charter

• A Charter explains the duties and how the SC intends to perform them.
  – Could be as simple as a restatement of the Bylaws
• Allows the SC to compare actual performance with defined duties
• Highlights the difference between oversight and decision making functions
• Informs the Board of intentions
  – No hidden agendas (or weapons)
  – Must include follow up on material findings
Partnership and Cooperation

• You need each other
  – Healthy tension should be expected
• Both have oversight responsibilities
  – Strategic versus Operational
• Board interaction is essential
• A good SC is a board’s best friend!
  – Remember this: The Board certifies financial transparency and full compliance with all applicable laws, rules and regulations every time a 5300 is filed with the NCUA.
Is the supervisory committee a training ground for future board members?
Essential Elements of SC Service

- Independence from Board
- Access to information and records
  - Credit Union records
  - Board minutes
  - Remember NCUA also has access to your work papers.
- Annual Meeting report to members
The Allies of an Enlightened Board

• Supervisory Committee

• Internal Audit

• External Audit

• The Regulator?
What’s the Problem? Board Perspective

• The Supervisory Committee is wasting our time

• The Supervisory Committee wants an equal vote or a veto on major decisions

• The Supervisory Committee is being too noisy

• The Supervisory Committee is causing trouble/friction within the Credit Union
What’s the Problem? SC Perspective

• The Board doesn’t understand or value or role

• The Board is freezing us out of the process

• The Board is withholding information

• The Board will threaten removal or no reappointment if we ask too many questions
Relationship with the Board

• What is your practice of interaction and cooperation?
  – Board meeting attendance
  – Examinations
  – Audit review
  – Committees
  – Planning Sessions
Board Meeting Attendance

• Attendance at board meetings. Oftentimes supervisory committee members have asked NCUA if they are required/entitled to attend board meetings. We encourage at least one supervisory committee representative to attend each board meeting. While the supervisory committee may attend such meetings, attendance is permitted only with the permission of the board; the committee members do not have an unqualified right to be present.

• The board must publish minutes and the minutes must be available to the supervisory committee for its review.

Source: NCUA SC Guide 2.04
Board Should Self Police

• Board needs to understand the dangers of avoiding dealing with internal problems.

• If a director fails to attend regular meetings of the board for 3 consecutive months, or 4 meetings within a calendar year, or otherwise fails to perform any of the duties as a director the office may be declared vacant by the board and the vacancy filled as provided in the bylaws.
SC Problem Resolution Options

• Notify the board
• Engage outside resources
• Notify the regulator
• Call a meeting of the membership
• Suspend officers, directors or credit committee members
Notifying the Board

• What does the matter involve?
  – Board member(s)
  – Management
  – General credit union performance
Chair to Chair

• Many issues are best resolved outside the spotlight of the board “arena”
• Do you have a solid informal communication link with each other?
• Monthly coffee or chats?

• Cooperation not coziness
Board Communication

• How do you communicate with the SC?
• Do they prepare an annual SC briefing for the board?
  – Include “Year in Review” narrative
  – Compliance review
  – Significant finding and events
  – Outstanding Resolution Items
“No good deed goes unpunished.”

Author Unknown
When Things Go Bad

- Suspension Authority

- The SC can suspend, by unanimous vote, any board member, executive officer, or credit committee member.
The Fail Safe

• If members of a board of directors believe a fellow director is acting inappropriately and cannot agree on the matter, they may bring the issue to the SC.

• It is the SC that has the authority to vote to suspend a director.

• The suspension must be acted on by the membership.
Special Meetings

• By the affirmative vote of a majority of members, the supervisory committee may call a special meeting of the members to consider any violation of the provisions of the Act, the regulations, or of the charter or the bylaws of this credit union, or to consider any practice of this credit union which the committee deems to be unsafe or unauthorized.
Not So Fast

• If you suspend someone, you will call a special meeting of the members to act on the suspension.

• The special meeting must be held within seven to fourteen days after the suspension.

• The person being suspended must be given an opportunity to present a defense and be given due process.
The New Kings (and Queens)

- If member votes at a special meeting result in the removal of all directors, the supervisory committee immediately becomes the temporary board of directors and must follow the procedures laid out in the bylaws.
Other Side of the Coin

• Any member of the supervisory committee may be suspended by a majority vote of the board of directors.

• A special meeting of the members must be held not fewer than 7 nor more than 14 days after any suspension, to determine whether the suspended committee member will be removed from or restored to the supervisory committee.
QUESTIONS?