

2010

National Treasury Employees Union Legislative Action

Issues for the Employees of Financial Regulatory Agencies

NTEU represents the bargaining unit employees at four key financial regulatory agencies that are covered under the Financial Institutions Reform Recovery and Enforcement Act (FIRREA). Those four are: the Federal Deposit Insurance Corporation (FDIC); the Securities and Exchange Commission (SEC), the Office of the Comptroller of the Currency (OCC) and the National Credit Union Administration (NCUA).

These agencies are exempt from many provisions of U.S.C. Title V, which governs most civil service employees. Therefore, particular legislation is sometimes required for their personnel and labor relations matters. The FIRREA Act and other statutes direct the covered agencies to seek parity among them in pay and benefits. Legislative issues of concern include:

- 1. Collective Bargaining over Pay and Benefits at OCC.**
- 2. An Independently Funded SEC.**
- 3. FERS Buyback at the FDIC.**

Collective Bargaining over Pay and Benefits at OCC

Our Request

The OCC Chapters of the National Treasury Employees Union strongly urge Congress to support language in H.R. 4173 that clarifies OCC employees' right to collective bargaining over pay and benefits, on a par with other financial regulatory agencies.

Why Collective Bargaining over Pay and Benefits?

- The OCC is the only NTEU-represented financial regulatory that lacks collective bargaining rights over pay and benefits. NTEU currently bargains over pay and benefits at the FDIC, SEC and NCUA. Court cases have interpreted the OCC's enabling statutes, dating from the Civil War era, as vesting the sole authority to determine pay and compensation in the Comptroller of the Currency.
- As a result of the savings and loan crisis of the late 1980's, Congress passed the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). FIRREA agencies were given authority to determine employee compensation and benefits outside of the General Schedule but with a responsibility to maintain comparability with respect to compensation and benefits within the FIRREA community.
- The OCC has implemented a pay-for-performance compensation system that is lacking in transparency and had no employee input. NTEU has raised issues of disparate treatment of employees and has requested the agency to provide information under the Freedom of Information Act (FOIA). All attempts to obtain meaningful information have been denied, leading to further employee concerns about the fairness of the system.
- To ensure consistency and comparability, as was intended under the FIRREA legislation, NTEU recommends that the Comptroller of the Currency's authority over compensation and benefits be subject to collective bargaining.
- OCC is a self-funded agency dependent upon the collection of assessments from the financial institutions it supervises. The OCC for years has consistently accumulated annual surpluses and now holds sizeable reserves relative to its annual operating expenses. NTEU recognizes the need to maintain those reserves for contingency purposes and to work within the budgetary means of the agency. NTEU has a consistent track record of accomplishing this at the FDIC, SEC and NCUA where it exercises collective bargaining rights.

We ask you to support the language contained in H.R. 4173 giving collective bargaining rights over pay and benefits at the OCC.

OCC Contact: Gary Denison, (415) 272-6245, gary.denison@occ.treas.gov

An Independently Funded SEC

Our Request

The SEC chapter of the National Treasury Employees Union strongly urges Congress to enact the proposal made by Senators Dodd and Schumer (and supported by SEC Chairman Mary Schapiro) to permit the SEC to fund its operations through the fees it collects.

Why An Independently Funded SEC?

- The SEC is virtually the only federal financial regulatory agency that is not independently funded. The Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Housing Finance Agency all fund their operations through the fees they collect (as would the proposed Consumer Financial Protection Agency).
- With a staff of approximately 3,800, the SEC is responsible for more than 35,000 registrants, including about 11,500 investment advisers, 7,800 mutual funds, 5,400 broker-dealers, and more than 10,000 public companies, as well as transfer agents, clearing agencies, exchanges and others. By comparison, the independently-funded FDIC employs approximately 5,000 staff to oversee about 5,100 FDIC-insured banks.
- From FY 2005 to the end of FY 2009, the number of registered investment advisors increased by 32%, the assets those advisers managed rose by 79%, and securities trading volume jumped 137%. However, during the 2005-2007 period, flat or declining funding forced the SEC to reduce its staffing levels by 10% and to cut its investment in new technologies by 50%. Despite increased funding in the last couple of years, the SEC has a smaller workforce now than it had in 2005.
- The SEC raises millions more dollars every year in registration and transaction fees than it receives from the Congressional appropriations process. In 2007, the SEC brought in \$1.54 billion in fees but it secured just \$881.6 million in funding. The President's proposed FY 2011 \$1.26 billion budget for the SEC represents a significant increase over recent budgets. However, that budget estimates that the SEC will collect \$1.74 billion in fees, 38% more than the requested expenditure.
- As an independently funded agency, the SEC would be much better able to hire and retain the experienced professionals it needs and to develop the technology it requires to better protect the interests of investors.

We ask you to support the efforts of Senators Dodd and Schumer to provide independent funding to the SEC.

SEC Contact: Greg Gilman, (617) 877-9608, gilmang@comcast.net

FERS Buyback at FDIC

Our Request

The FDIC Chapters of the National Treasury Employees Union respectfully request that Congress support a legislative change to allow former “Liquidation Graded” employees at the FDIC to purchase retirement credit for the period that they previously worked as Liquidation Graded employees.

Why a FERS Buyback at the FDIC?

- Prior to the establishment of the Federal Employees Retirement System (FERS) on January 1, 1989, temporary employees of the FDIC were eligible for participation in the Civil Service Retirement System (CSRS). With the onset of the FERS, temporary “Liquidation Graded” employees on one year term appointments were ineligible to participate in the retirement program.
- These Liquidation Graded employees were instrumental in managing the financial crises of the late 80’s and early 90’s. In 1994 the FDIC converted these Liquidation Graded employees to General Graded employees, and therefore eligible for FERS.
- Many of these employees worked for many years without receiving retirement credit, and many are still working not only for the FDIC but in the federal government.
- NTEU supports a legislative change to allow these employees to make a payment of the retirement deduction they would have paid if allowed to, in exchange for receiving FERS retirement credit for those years.
- The ability to purchase retirement credit for the period they worked as Liquidation Graded employees will allow them to retire with the additional pension credit. They worked the long days and hours which were required during the crises. The Liquidation Graded employees would like to receive the same benefit for retirement credit that many other co-workers who were not designated temporary received while working side by side with them.

We ask you to support a legislative change to allow “Liquidation Graded” employees at the FDIC to purchase retirement credit for the period that they previously worked as Liquidation Graded employees.

FDIC Contact: Carey E. Monahan, (401) 996-3662, Cmonahan3@cox.net