

Subject:
SEC Proposes Proxy Disclosure Revisions

Summary

On July 10, 2009, the Securities and Exchange Commission ("SEC") proposed changes to the required annual executive compensation disclosure and requested comments on the proposed changes. The proposed regulations, if adopted, will be effective for the 2010 proxy season.

The text of the proposed regulations may be found at:
<http://www.sec.gov/rules/proposed/2009/33-9052.pdf>

Details

The proposed amendments reflect the SEC's belief that the current disclosure rules do not address certain key issues relating to executive compensation and corporate governance: the relationship between company-wide incentive compensation policies and corporate risk; director qualifications; the role of the board of directors in corporate management; company leadership structure; potential compensation consultant conflicts of interest; and issues relating to the conduct of shareholder voting. A summary of the proposed regulations follows:

1. The Compensation Discussion and Analysis or, "CD&A," must provide information pertaining to how a company's overall compensation policies for *employees* (not exclusive to executives) create incentives that can affect the company's risk. A company could be required to discuss compensation policies at the business unit level if the company has one or more business units:
 - a. That generates a significant portion of the company's risk;
 - b. In which the manner of compensating employees is significantly different from employees in other units;
 - c. That is significantly more profitable than other units; or
 - d. That pays a significant percentage of revenues as compensation.
2. The valuation of equity grants, as shown on the Summary Compensation Table and the Directors Compensation Table, must now reflect the full grant date fair value of equity awards made during the covered fiscal year.
3. Additional information regarding members of the board of directors and board nominees must be disclosed, including:
 - a. A discussion of the particular experience and background that qualifies that person to serve as a director and of any committee to which that director is appointed;

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- b. An increase in the time period for which legal proceedings must be disclosed from five years to 10; and
 - c. Disclosure of any directorships held by each director and nominee at any time during the past five years at public companies.
4. The company's leadership structure must be discussed, including:
 - a. Reason(s) why the company has chosen to combine or separate the chief executive officer and the board chairman;
 - b. Rationalization as to why the company has (or does not have) a lead independent director, and if a lead independent director exists, a discussion of the specific role that the position occupies; and
 - c. The board's role in the company's risk management process.
5. The compensation consultant's relationship to the company will be subject to increased disclosure, including:
 - a. Other services provided to the company by the compensation consulting firm and, if such services were provided, whether the board approved these services;
 - b. Fees for executive compensation work and for all of the other work performed by the compensation consulting firm; and
 - c. Whether management had a role in selecting the compensation consultant.

The SEC document also stated the SEC would consider incorporating a few other topics into the final rules, including:

1. Requiring disclosure of compensation information for a larger group of executives;
2. Requiring one compensation committee member to have expertise in compensation matters (similar to the audit committee requirement);
3. Giving the compensation committee the right to hire independent legal counsel;
4. A discussion of internal pay equity; and
5. A detailed discussion of gross-ups, including a quantification of the savings to each executive.

The SEC requested that comments on the proposed amendments be submitted by September 15, 2009.

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