American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000
www.aflcio.org

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May 19, 2011

Sent via Electronic and U.S. Mail

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington DC 20549-1090

Re: Listing Standards for Compensation Committees (File No. S7-13-11)

Dear Ms. Murphy:

On behalf of the American Federation of Labor and Congress of Industrial Organizations ("the AFL-CIO"), I welcome this opportunity to comment on the proposed rules regarding the stock exchange listing standards for the independence of compensation committee members and the compensation consultants they hire to advise them on executive pay. These rules implement Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which added Section 10C to the Securities Exchange Act of 1934.

The AFL-CIO is the country's largest labor federation and represents 12.2 million union members. Union-sponsored pension and employee benefit plans hold more than $480 billion in assets. Union members also participate directly in the capital markets as individual investors and as participants in pension plans sponsored by corporate and public-sector employers. The retirement savings of America's working families depend, in part, on public companies having responsible executive compensation practices.

In our view, too many directors who serve on compensation committees have significant personal, financial and business ties to the chief executive officers that they are responsible for compensating. Such conflicts of interest preclude an "arms-length" negotiation process. We believe that this lack of compensation committee director

independence helps explain rising CEO pay levels. The AFL-CIO's Executive Paywatch website (available at http://www.paywatch.org) shows that average CEO total pay at S&P 500 companies was $11.4 million in 2010, an increase of 23 percent.

To ensure consistency of standards, we urge the U.S. Securities and Exchange Commission (the "Commission") to require that all publicly traded companies have standing compensation committees. While the New York Stock Exchange listing standards require companies to have a compensation committee composed solely of independent directors, the NASDAQ Stock Market only requires that executive pay be determined and reviewed by independent directors. We believe that the existence of a formal compensation committee helps promote accountability to shareholders.

We also believe that the Commission should strengthen the bright line director independence criteria of the stock exchange listing standards. Although boards are supposed to evaluate all potential conflicts of interest, too often boards rely exclusively on the bright line independence standards. However, there are a wide number of potential conflicts of interest that are not addressed by the existing stock exchange listing standards bright line tests for director independence.

At a minimum, we believe the bright line definition of director independence should categorically exclude anyone who is not an "outside" director as defined by Section 162(m) of the Internal Revenue Code, or who is not a "non-employee" director under Securities Exchange Act Rule 16b-3(b)(3). We also believe that directors should not be considered independent if they have any related party transactions that are required to be disclosed by Item 404 of Regulation S-K.

The omission of business, financial, and personal relationships between directors and senior executives as a bright line test is one of the biggest loopholes to the existing stock exchange listing standards for director independence. Compensation committee directors are supposed to be independent of the senior executives whom they are responsible for paying. For this reason, the stock exchange listing standards need bright line tests for material relationships between directors and senior executives.

We note that the corporate governance policies of the Council of Institutional Investors ("CII") define an independent director as:

"Someone whose only nontrivial professional, familial or financial connection to the corporation, its chairman, CEO or any other executive officer is his or her directorship. Stated most simply, an independent director is a person whose directorship constitutes his or her only connection to the corporation."

In addition to this basic definition of an independent director, the CII's policies list a variety of guidelines for assessing director independence that we believe should be incorporated into the stock exchange listing standards as bright line tests. A copy of the CII corporate governance policies is available at http://www.cii.org/policies.

For example, we believe that the employment of a director's immediate family member should disqualify the director from service on the compensation committee. The NYSE Listed Company Manual Section 303A.02(b)(ii) provides a bright line test for family members who make more than $120,000 per year. However, the commentary to this rule appears to contradict this intent: "Compensation received by an immediate family member for service as an employee of the listed company (other than an executive officer) need not be considered in determining independence under this test."

The stock exchanges should be discouraged from exempting any relationship from the compensation committee independence requirements. If such an exemption is made under Section 10C(a)(4) of the Securities Exchange Act, the Commission should require that any issuer relying on the exemption disclose such reliance in the issuer's proxy statement and Form 10-K. The Commission should also require that the issuer disclose the board's rationale for its reliance on any such exemption.

In order to ensure that compensation committees receive independent advice, we also believe it is necessary that those who advise compensation committees are free of conflicts of interest. In our view, the most important factor in determining compensation advisor independence is the ratio of the fees received for advising the compensation committee relative to fees received for other services. The provision of other services may lead the advisor to provide executive compensation advice favored by management in order to obtain or retain such other assignments.

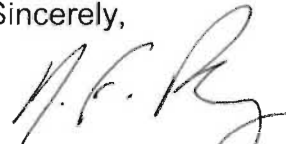
We believe that these compensation advisor conflicts of interest are a leading cause of runaway CEO pay growth. A December 2007 report titled "Executive Pay: Conflicts of Interest Among Compensation Consultants" by the U.S. House of Representatives Committee on Oversight and Government Reform found a correlation

between high levels of CEO pay and the use of compensation consultants who received a high percentage of fees for other services. The report also found that compensation consultants have been required to "cross sell" other services to client companies.

We strongly support requiring disclosure of all fees received by compensation advisors even if the consultant provides only advice on broad-based plans or provides only non-customized benchmark data. The compensation committee process for selecting independent compensation advisors should also be disclosed including the evaluation of potential conflicts of interests arising from the provision of other services. In addition, issuers should be required to disclose any personal or business relationships between compensation advisors and senior executives of the issuer.

We appreciate the opportunity to comment on this rulemaking. If the AFL-CIO can be of further assistance, please do not hesitate to contact me at 202-637-5379.

Sincerely,



Daniel F. Pedrotty
Director, Office of Investment

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