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United States Government Accountability Office
Washington, DC 20548

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January 7, 2010

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Proxy Disclosure Enhancements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (Commission), entitled “Proxy Disclosure Enhancements” (RIN: 3235-AK28). We received the rule on December 18, 2009. It was published in the *Federal Register* as a final rule on December 23, 2009. 74 Fed. Reg. 68,334.

The final rule amends the Commission’s rules to enhance information provided in connection with proxy solicitations and in other reports filed with the Commission. The amendments require registrants to make new or revised disclosures about compensation policies and practices that present material risks to the company, stock and option awards of executives and directors, director and nominee qualifications and legal proceedings, board leadership structure, the board’s role in risk oversight, and potential conflicts of interest of compensation consultants that advise companies and their boards of directors.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Florence E. Harmon
Deputy Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"PROXY DISCLOSURE ENHANCEMENTS"
(RIN: 3235-AK28)

(i) Cost-benefit analysis

The Commission prepared a cost-benefit analysis in conjunction with the final rule. Generally, the Commission determined that the benefits to investors would be greater disclosure, thus allowing investors to make better informed investment decisions, and the costs to companies would be those related to information gathering and disclosure, which is discussed in the Paperwork Reduction Act section below. The Commission discussed the costs and benefits as they applied to six aspects of the rule.

For example, the Commission determined that (1) the new narrative disclosure of a company's compensation policies and practices as they relate to the company's risk management would benefit investors by possibly leading to increased value for investors, by giving investors an enhanced ability to monitor the risks arising from a company's compensation policies and practices for employees; (2) the revisions to the summary compensation disclosure would benefit companies by eliminating certain pieces of information that were previously required to be disclosed and benefit investors by making information more readily available to investors, which could be useful in their voting and investment decisions; (3) the enhanced director and nominee disclosure would benefit investors by increasing the amount and quality of information that they receive concerning the background and skills of directors and nominees for director, enabling investors to make better-informed voting and investment decisions; (4) new disclosures about board leadership structure and the board's role in risk oversight would benefit investors by allowing investors to understand management's explanation regarding whether or not the principal executive officer serves as chairman of the board, and, in the case of a registered management investment company, whether the chairman is an "interested person" in the fund; (5) the new disclosure regarding compensation consultants may benefit investors by illuminating potential conflicts of interest; and (6) the reporting of voting results on Form 8-K will facilitate security holder access to faster disclosure of the vote results of a company's annual or special meeting.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission determined that the final rule will have a significant effect on a substantial number of small entities and prepared a regulatory flexibility analysis as required by the Act. The Commission estimated that the final rule will affect approximately 1,229 companies, other than registered investment companies that may be considered small entities, and approximately 162 investment companies that may be considered small entities. The Commission describes the steps it took to minimize the effect on small entities in the final rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Commission published a notice of proposed rulemaking on July 10, 2009. 74 Fed. Reg. 35,076. The Commission received 130 comments on the proposed rule and responded to those comments in the final rule. 74 Fed. Reg. 68,334.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

This final rule contains 14 information collection requirements under the Act that have been submitted to the Office of Management and Budget for review. The Commission estimates that the amendments for annual reports, quarterly reports, and proxy and information statements will result in an estimated 305,851 total incremental burden hours and professional costs of \$30,585,130. The Commission estimates that the amendments for registration statements will result in an estimated 53,485 total incremental burden hours and professional costs of \$27,144,800.

Statutory authorization for the rule

The Commission states that the final rule is made under the authority set forth in sections 3(b), 6, 7, 10, and 19(a) of the Securities Act; sections 12, 13, 14, 15(d), and 23(a) of the Exchange Act; and sections 8, 20(a), 24(a), 30, and 38 of the Investment Company Act.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the review requirements of the order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the review requirements of the order.