WHITE & CASE

Corporate Governance and Executive Compensation Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

Topic	Explanation	Effectiveness
Shareholder Vote on Executive Pay ("Say-on-Pay") [Section 951, adding new Section 14A to the Securities Exchange Act of 1934 (the "Exchange Act"]	Requires that companies include in their annual proxy statement, at least every three years, a non-binding say-on-pay vote with respect to the compensation of named executive officers. Shareholders have the right to vote at least once every six years on the frequency of the say-on-pay votes.	Proxy statement for the first annual meeting held on or after January 22, 2011 (six months after enactment) must provide for (1) a non-binding say-on-pay vote, and (2) a vote on the frequency of subsequent say-on-pay votes.
Shareholder Vote on Golden Parachutes [Section 951, adding new Section 14A to the Exchange Act]	Requires a non-binding shareholder vote on golden parachute payments to named executive officers in connection with a change-of-control transaction of the company. The related proxy statement must contain clear and simple disclosure based on rules to be promulgated by the SEC. Does not apply to a golden parachute payment that was previously approved by shareholders in a say-on-pay vote.	Proxy statement related to a change of control that is subject to a shareholder vote held on or after January 22, 2011 (six months after enactment) must provide for such a vote. Note: No deadline is set for the SEC rules related to "clear and simple" disclosure and the effectiveness of the shareholder approval requirement does not appear dependant on those rules.
Compensation Committee Independence [Section 952, adding new Section 10C to the Exchange Act]	Requires the SEC to issue rules directing each national securities exchange to require the following: (a) each member of a listed company's compensation committee must be (i) a director and (ii) independent under a definition of independence to be established by the SEC; and (b) (i) the compensation committee has authority to engage a compensation consultant, legal counsel or other advisor, and (ii) the company must disclose in its annual proxy statement whether the compensation committee used a compensation consultant and whether that use raised any conflicts of interest and how the conflicts were addressed.	SEC rules must be issued no later than July 16, 2011 (360 days after enactment). The effective date of those rules is not yet clear. Disclosure regarding the use of a compensation consultant and whether that use raised any conflicts of interest must be included in a proxy statement for an annual meeting occurring on or after July 22, 2011 (one year after enactment).
Pay for Performance [Section 953(a), adding new Section 14(i) to the Exchange Act]	Requires the SEC to issue rules requiring a company to include in its annual proxy statement, in graphical or narrative form, a clear description of any executive compensation required to be disclosed by the issuer under the SEC's proxy rules, including information that shows the relationship between executive compensation paid and the financial performance of the company, taking into account any change in the value of the shares of stock and dividends of the company and any distributions.	There is no specified deadline for the SEC to issue the required rules.

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Compensation Ratios [Section 953(b)]	Requires the SEC to amend Item 402 of Regulation S-K to require a company to disclose: (1) the median of the annual total compensation of all employees of the issuer, except the CEO; (2) the annual total compensation of the CEO; and (3) the ratio of the CEO's compensation to the median compensation of all other employees.	No specified deadline for the SEC to amend Item 402 of Regulation S-K.
Clawback Requirements [Section 954, adding new Section 10D to the Exchange Act]	Requires the SEC to issue rules directing each national securities exchange to require listed companies to develop a policy requiring: (a) disclosure of incentive-based compensation that is based on financial information; and (b) the company to recoup incentive compensation that was paid on the basis of erroneous data from any current or former executive officer during the three-year period preceding the restatement.	No specified deadline for the SEC to adopt the required rules. Likely to be adopted before the 2011 proxy season.
Employee and Director Hedging [Section 955, adding new Section 14(j) to the Exchange Act]	Requires the SEC to issue rules requiring companies to disclose in their annual proxy statement whether their employees or directors (or their designees) may purchase financial instruments designed to hedge equity securities of the company that the employee or director holds.	No specified deadline for the SEC to adopt the required rules.
Excessive Compensation [Section 956]	Applies only to certain "covered financial institutions." Requires the appropriate federal regulators to issue rules applying enhanced reporting and regulation of incentive-based compensation structures to covered financial institutions. The rules must prohibit any type of incentive compensation arrangement that encourages inappropriate risks by an executive officer, employee, director or principal shareholder of the covered financial institution by providing "excessive compensation, fees or benefits" or that could lead to material financial loss to the institution.	SEC rules must be issued no later than April 22, 2011 (nine months after enactment). The effectiveness of those rules is not yet clear.
Broker Discretionary Voting [Section 957, amending Section 6(a) of the Exchange Act]	Each national securities exchange is required to adopt rules prohibiting brokers from voting uninstructed shares (e.g., discretionary voting) in connection with a shareholder vote on the election of directors, executive compensation or any other significant matter (as determined by the SEC).	July 22, 2010 (the date of enactment); however, there is no specified deadline for when the SEC or the exchanges must adopt the final rules. Note that effective January 1, 2010, new NYSE rules already prohibit brokers from voting uninstructed shares in director elections without explicit voting instructions.
Proxy Access [Section 971, amended Section 14(a) of the Exchange Act]	The SEC may, but is not required to, issue rules permitting shareholders to include their nominees for the board of directors in a company's proxy materials.	Not applicable. The provision is permissive so the SEC may or may not issue any rules.
Board Leadership Structures [Section 972, adding new Section 14B of the Exchange Act]	Requires the SEC to issue rules that will require a company to explain in its annual proxy materials why it has either chosen to combine or separate its chairman and CEO positions.	SEC rules must be issued no later than January 17, 2011 (180 days after enactment). The effective date of those rules is not yet clear. Note that effective Feb 28, 2010, new rules issued by the SEC already require disclosure on this topic.
Sarbanes Oxley Section 404 Exemption [Section 989G, amending Section 404 of the Sarbanes-Oxley Act of 2002]	Section 404(b) of the Sarbanes-Oxley Act is amended to exempt non-accelerated filers and smaller reporting companies from the requirement of an auditor's attestation report.	July 22, 2010 (the date of enactment).