

VIA ELECTRONIC MAIL

December 2, 2013

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

Re: Pay Ratio Disclosure, File Number S7-07-13

Ms. Murphy:

On September 18, 2013, the Securities and Exchange Commission (SEC) released a request for comment on proposed amendments to Item 402 of Regulation S-K to implement Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).¹ The proposed amendments (Proposed Amendments) would require certain issuers to disclose the median of the annual total compensation of all their employees. In addition, these issuers would have to disclose the ratio of this median to the compensation of the issuer's chief executive officer. The pay ratio disclosure would be required in any annual report, proxy or information statement, or registration statement that requires executive compensation disclosure under Item 402 of Regulation S-K.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. FSI continues to support effective and meaningful disclosure that provides investors with the information they need to make appropriate investment decisions. We applaud the SEC's proposed approach, which provides issuers flexibility in complying with these new requirements while retaining the spirit and intent of Dodd-Frank Section 953(b). Our comments detail additional steps the SEC can take to provide issuers with additional flexibility while ensuring investors have access to accurate information.

Background on FSI Members

The independent broker-dealer (IBD) community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their

¹ Pay Ratio Disclosure, Release Nos. 33-9452; 34-70443; 78 Fed. Reg. 60,560 (October 1, 2013).

² The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisors, and their independent contractor registered representatives. FSI has 100 Broker-Dealer member firms that have more than 138,000 affiliated registered representatives serving more than 14 million American households. FSI also has more than 35,000 Financial Advisor members.

registered representatives. Due to their unique business model, IBDs and their affiliated financial advisers are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 201,000 independent financial advisers – or approximately 64% percent of all practicing registered representatives – operate in the IBD channel.³ These financial advisers are self-employed independent contractors, rather than employees of the IBD firms. These financial advisers provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisers are typically “main street America” – it is, in fact, almost part of the “charter” of the independent channel. The core market of advisers affiliated with IBDs is comprised of clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisers are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.⁴ Independent financial advisers get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisers have a strong incentive to make the achievement of their clients’ investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisers. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisers play in helping Americans plan for and achieve their financial goals. FSI’s primary goal is to ensure our members operate in a regulatory environment that is fair and balanced. FSI’s advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Comments

FSI appreciates the opportunity to provide comments that may assist the SEC in this important area. Many FSI members are publicly traded companies that will be directly impacted by the proposed changes to Item 402 of Regulation S-K. Many more FSI members are subsidiaries of publicly traded companies that may be required to gather additional information in order to comply with the proposed regulatory changes. What follows are FSI’s suggestions for retaining the integrity of the disclosure while providing firms with additional flexibility.

- Subsidiaries of Publicly Traded Issuers: FSI urges the SEC to exempt subsidiaries of publicly traded issuers from the proposed pay ratio disclosure requirements. Under the current reporting requirements of Regulation S-K, the compensation of executive officers of a subsidiary of a publicly trading company need not be disclosed when the compensation of the executive officers of the publicly traded company are disclosed. Requiring subsidiaries of publicly traded companies

³ Cerulli Associates at <http://www.cerulli.com/>.

⁴ These “centers of influence” may include lawyers, accountants, human resources managers, or other trusted advisers.

to provide a separate pay ratio disclosure will not provide any material benefit to investors and may indeed confuse investors. Applying the current rules consistently, which do not require subsidiaries of publicly traded companies to provide a separate executive compensation table, will properly balance the intent of Dodd-Frank Section 953(b) while preventing additional and unnecessary regulatory burdens on firms and other market participants.

- Statistical Sampling: FSI supports the SEC's decision to allow firms to make use of statistical sampling for determining median total compensation. This flexibility will be particularly important for firms that are subsidiaries of larger reporting issuers. Because payroll information is typically maintained at the subsidiary level, providing firms with the flexibility to utilize a variety of statistical sampling methods for acquiring the necessary compensation data will dramatically reduce the compliance burden on firms. It is not appropriate for the SEC to specify a "one-size fits all" statistical sampling methodology for firms to employ when complying with the Proposed Amendments. Rather, firms should be allowed to utilize a variety of methods tailored to their specific firm and payroll systems when conducting a statistical sampling method to determine median annual compensation for employees not including the chief executive officer.
- Non-US Employees: Some FSI members employ overseas workers to provide support services. These non-US workers typically do not account for a material percentage of a firm's total compensation or total workers. Gathering the compensation data on these non-US workers will introduce significant costs for firms subject to the Proposed Amendments while not providing investors with significant benefits with regard to the precision of the compensation ratio. Overseas firms often maintain separate payroll systems that distribute compensation in foreign currencies which would need to be converted to US dollars for purposes of the pay ratio calculation. The significant complexity and regulatory burdens associated with these procedures far outweigh any potential benefits to investors. FSI suggests that the SEC exempt non-US employees for the purposes of calculating annual total compensation and its associated median for firms with 10 percent or fewer non-US employees. This proposed exemption will provide firms with the necessary flexibility for complying with the disclosure requirements while not denying investors of the material information required for making appropriate investment decisions.
- Compliance Date: Because of the complexities inherent in implementing the proposed requirements and the burdens likely to follow from an excessively expeditious deadline, FSI suggests that the SEC allow firms three years to comply with the proposed pay ratio disclosure requirements. This modest compliance period will provide firms with the time necessary to assess their data gathering capabilities and to work with professional within and outside of the company that can construct systems that will provide accurate and flexible procedures for providing the required disclosures.

Conclusion

We remain committed to constructive engagement in the regulatory process and, therefore, welcome the opportunity to work with the SEC on this and other important regulatory efforts.

Thank you for your consideration of our comments. Should you have any questions, please contact me at



Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire". The signature is fluid and cursive, with a large initial "D" and "T" followed by "Bellaire".

David T. Bellaire, Esq.
Executive Vice President & General Counsel