

service, (ii) normal retirement age, (iii) estimated annual normal retirement benefit, (iv) early retirement age and (v) estimated annual early retirement benefits. The estimated retirement benefits must be described in the form currently elected by the executive. Separate disclosure would be required for each plan in which the executive participates.

The narrative description that accompanies the Pension Table would be required to include, among other things: (i) material terms and conditions of each plan, (ii) the amount of any available lump sum distribution (and the assumptions used to calculate the amount), (iii) company policies regarding extra service credits and (iv) the reasons for each plan.

Comment 1: We agree that disclosure of the annual increase in the actuarial value of pension benefits should be disclosed in the Summary Compensation Table and that such disclosure is necessary to permit a full understanding of an executive's total compensation for the year. The disclosure also helps to equalize the treatment of executives who are compensated using defined contribution plans with those who are compensated using defined benefit plans.

Comment 2: We agree that the annual increase in the actuarial value of pension benefits is a relevant measure of the compensation value of these benefits. However, in lieu of allowing each reporting company to determine how this value should be calculated (and describing the assumptions in a footnote), the SEC should require the use of a standard set of assumptions. Without a standard set of assumptions, it will be impossible for investors to compare pension values across reporting companies.

Comment 3: We believe that additional disclosure of pension benefits is warranted under the revised Summary Compensation Table. Based on our comment in Section I above, where we recommend adding a separate column to the Summary Compensation Table entitled "Non-Qualified Defined Contribution Benefits," we also recommend adding a separate column entitled "Increase in Pension Actuarial Value." These separate disclosures will equalize the treatment of defined contribution and defined benefit retirement amounts and provide clarity for investors. The amounts disclosed in these columns will tie directly to the new NQ DC Table and the new Pension Table, eliminating the need for footnote disclosures.

Comment 4: We strongly disagree with the SEC's suggestion that the cost to the company of the annual pension benefits be disclosed in the Summary Compensation Table in lieu of disclosing the actuarial increase in the benefits. Company "cost" is a relative concept. Defined benefit plans are funded on an aggregate basis. There is no accepted standard for allocating a contribution or expenses among individual participants. Some plans are over-funded, in which case no company contributions are being made. This does not mean that there is no "cost" to the company.

Comment 5: We believe that the SEC should consider revising the disclosure rules for "cash balance" and other "account based" defined benefit plans. Consideration should be given to requiring that the value of those benefits be disclosed using the rules applicable to defined contribution plans, rather than the above-described rules applicable to defined benefit plans. In other words, the "credits" to the cash balance accounts would be disclosed as registrant contributions and the "earnings" would be disclosed on the same basis as defined contribution earnings. In addition, if the SEC does not eliminate the requirement to disclose an aggregate account balance for defined contribution plans, a similar requirement should be added for account based defined benefit plans.

Comment 6: We disagree with the requirement that the estimated early and normal retirement benefit amounts be calculated using “the form of benefit currently elected” by the executive. This is unworkable. Under IRS regulations, qualified pension plans cannot obtain a valid distribution election until 90 days prior to pension commencement date. Most benefits that were accrued prior to January 1, 2005 (*i.e.*, benefits that are “grandfathered” under the Jobs Act) provide for mirror elections. Therefore, the regulations should provide that the estimated benefit amounts be calculated in the form of a single life annuity. This standard should apply even if an executive has elected another form of payment, to assist investors in making comparisons of the benefits.

Comment 7: We disagree with the requirement that separate disclosure be provided for each “plan” in which an executive participates. This requirement is unworkable in those instances where an executive participates in a qualified pension plan and an “excess” supplemental pension plan (“SERP”). The amount payable from the SERP cannot be accurately identified until retirement. It depends upon, among other things, IRS qualified plan limits, final compensation, etc. The regulations should be revised to permit the disclosure of a single benefit amount for these “tandem” plans, with a footnote disclosure that a part of the benefit will be paid from the SERP.

Comment 8: We disagree with the proposal to allow each reporting company to determine the assumptions that are used to calculate the estimated annual normal retirement benefit and the estimated annual early retirement benefit. The SEC should require the use of a standard set of assumptions. Without a standard set of assumptions, it will be impossible for investors to compare pension values across reporting companies.

Comment 9: We disagree with the proposals regarding disclosure of lump sum pension benefits. The proposed regulations do not require disclosure of a lump sum value in the Pension Table itself. Disclosure of a lump sum value is only required in the footnotes and only required if the plan has a lump sum distribution option. If the SEC eliminates the disclosure of the aggregate account balances under non-qualified defined contribution plans, then we agree that the proposed disclosure of the lump sum value of defined benefits is appropriate. However, we recommend that the SEC require a standard set of assumptions (such as use of the Internal Revenue Code Section 417(e) rates) for this purpose.

If the SEC chooses to implement the requirement that the NQ DC Table disclose the aggregate account balance of non-qualified defined contribution benefits, then a similar disclosure should be required for all defined benefit pension benefits. Otherwise, it will be impossible for investors to fairly compare the retirement benefits of executives. The Pension Table should be revised to add a column entitled “Lump Sum Value of Benefit.” The narrative disclosure could describe whether a particular plan offers a lump sum and any restrictions applicable thereto.

Comment 10: We disagree with the requirement to provide a detailed narrative disclosure of pension plan terms. The new detailed Pension Table will provide investors with all of the information they need. Investors are interested in the dollar amounts that are payable to the executives, not the benefit formula, eligibility standards, etc. The regulations should be revised to merely require a general description of the plan’s terms. The narrative disclosure for many companies would be several pages long and will provide no additional useful information to investors.

provided in the corporate workplace and if the benefits help the executive work more efficiently, should not be deemed a perquisite, unless the value thereof (on an individual basis) exceeds a specified dollar amount.

J. Beneficial Ownership Disclosure (Preamble P. 114)

Proposed Rule: The proposed regulations require that beneficial ownership table include footnote disclosure of the number of shares pledged as security by the named executive officers, directors and director nominees.

Comment: We disagree with the proposal to disclose pledged shares. Investors are interested in the number of shares owned by the named executive officers, directors and director nominees. Shares are subject to a variety of possible risks and contingencies, any of which could potentially influence management's performance and decisions. We see no reason to single out pledged shares as a possible motivating factor.

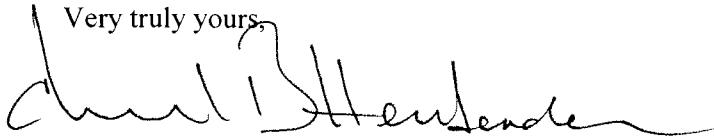
K. Director Independence (Preamble PP. 137-144)

Proposed Rule: The proposed regulations add a requirement that the proxy include a "description of any transactions, relationships or other arrangements" with the directors that are not disclosed but were considered by the board in determining that the applicable independence standards were met.

Comment: We agree with the theory behind the disclosure. However, we would like the SEC to clarify that, if a relationship with a particular director is disclosed, there is no need to separately describe every transaction with that director. For example, if a director works for a service provider of the reporting company, and this relationship is disclosed in the proxy, each transaction with the service provider does not need to be separately disclosed.

We appreciate the opportunity to present these comments. If the SEC has any questions about our comments, or if we can be of further assistance, please let us know.

Very truly yours,



Charles A. Bittenbender