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September 14, 2015

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F. Street NE
Washington, DC 20549-1090

Re: File No. S7-12-15, Release Nos. 33-9861 and 34-75342 (July 1, 2015), Listing Standards for Recovery of Erroneously Awarded Compensation (the "Proposing Release")

Dear Mr. Fields:

On behalf of Chevron Corporation, I would like to thank the U.S. Securities and Exchange Commission (the "Commission") for the opportunity to comment on the proposed rules to implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which added Section 10D to the Securities Exchange Act of 1934 (the "Exchange Act"). Proposed Exchange Act Rule 10D-1 (the "Proposed Rule") would implement the provisions of Section 10D.

Chevron Corporation respectfully submits comments to the following provisions of the Proposed Rule:

**The Proposed Definition of "Restatement" Should be Revised.**

Under the Proposed Rule, a clawback policy would apply to any incentive-based compensation received by executive officers during the three full fiscal years immediately preceding the date that the company is ***required*** to prepare a restatement of its financial statements to correct a material error. The Proposed Rule defines "accounting restatement" as "the result of a process of revising previously issued financial statements to reflect the correction of one or more errors that are material to those financial statements."

The proposed definition generally harmonizes with the relevant accounting literature and Commission staff guidance, which indicate that when an error is material the financial statements must be restated (sometimes informally called a "Big R" restatement). A "Big R" restatement requires an issuer to revise previously filed financial statements and refile financial statements via an amendment to Form 10-K or 10-Q, as applicable. In contrast, when an error is immaterial, the error can usually be corrected in a future Form 10-K or 10-Q (sometimes informally called a "Little R" restatement).

We believe that only so-called "Big R" restatements should trigger a clawback under the Proposed Rule. We agree that the definition of "accounting restatement" should reference "errors that are material to [the] financial statements." However, since the Commission requires U.S. domestic companies to file financial statements in accordance with Generally Accepted Accounting Principles ("GAAP"), we also believe that the proposed definition of "accounting restatement" should be revised to reference GAAP and the relevant accounting literature. This would avoid any disconnect between the Proposed Rule and the accounting standards that govern the financial statements.

We also submit that the Commission should provide additional guidance on the implications of aggregation of immaterial error corrections. The Proposed Rule indicates that "issuers should consider whether a series of immaterial error corrections could be considered a material error when viewed in the aggregate." This requirement raises practical considerations for issuers since it would require issuers to constantly monitor immaterial errors and out-of-period adjustments to assess their materiality in the aggregate. This is particularly troublesome since these types of adjustments have already been found to be immaterial, but now may take on additional meaning in the clawback context. It is also unclear from the Proposed Rule over what period of time these potential series of immaterial errors could ripen into a material error, and if they did become material, at what point the issuer should reasonably conclude that a material error occurred (i.e., determine when the appropriate clawback trigger date occurred).

**The Proposed Definition of "Executive Officer" Should be Revised.**

The clawback policy contemplated by Section 10D of the Exchange Act applies to any "executive officer," though that term is not defined in Section 10D. The Proposed Rule defines "executive officer" as an issuer's "president, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), any vice-president of the issuer in charge of a principal business unit, division or function (such as administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy making functions for the issuer." This definition is the same as "officer" in Rule 16a-1(f) covering those persons subject to Section 16 of the Exchange Act (i.e., Section 16 officers).

We are concerned that this expansive definition of "executive officer" may, in certain circumstances, unnecessarily capture individuals who, as a practical matter, do not have direct control over or impact on the preparation of financial statements or who may not have had an important role in contributing to the events leading to a financial restatement. In our view, the proposed definition, combined with the no-fault framework of the Proposed Rule, could impose a disproportionately punitive and unfair burden on one or more such executive officers. Targeting such individuals will likely contribute little to improving accounting systems, enhancing the quality of financial statements, or reducing the chance of a misstatement.

We believe it would be more effective to focus on those executive officers who have roles that more closely impact the preparation of a company's financial statements or who had a role in contributing to the events leading to a financial restatement. Specifically, we propose that the definition of "executive officer" cover only the issuer's principal executive officer, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), and, in addition, any officer in charge of a principal business unit, division, or function or who performs a policy-making function and whom the board of directors or compensation committee determines to have had an important role in contributing to the events leading to a financial restatement. Our proposed definition specifically covers those officers who have senior-level accountability for the preparation of issuer financial statements and top-level tone setting for the organization. In addition, our proposed definition vests the issuer's board or compensation committee with discretion to identify any other officers who should be subject to recoupment based upon the particular facts and circumstances of the restatement. We believe this revised definition is consistent with Section 10D, particularly in light of the fact that the Commission's proposed definition is not required by statute.

Additionally, the Proposed Rule could require recovery of incentive-based compensation that an executive officer earned while serving in a non-executive officer capacity since the Proposed Rule requires only that the individual served as an executive officer at any point in time during the applicable performance period. This could result in a disproportionate recovery of incentive-based compensation for certain individuals who have not been executive officers for the entire time period impacted by the clawback and is a particularly harsh result for non-culpable individuals. We recommend that the Proposed Rule be modified to indicate that recoupment from an executive officer is limited to incentive-based compensation received during that time which she or he was in fact an executive officer.

**The Definition of "Incentive-Based Compensation" Should Be Clarified to Exclude Certain Equity Awards That Vest Solely on the Passage of Time.**

The Proposed Rule defines "incentive-based compensation" as any compensation that is granted, earned or vested based wholly or in part upon the attainment of any financial reporting measure, such as stock price. This definition could be interpreted broadly to include an equity award for which the ultimate value is determined with reference to stock price but nonetheless vests solely upon completion of a specified employment period or passage of time. The Proposing Release suggests that such equity awards—which we understand to include stock options, restricted stock awards, and other equity awards that vest solely on the passage of time—do not constitute incentive-based compensation even though their ultimate value fluctuates with the value of the issuer's stock. We agree with the Commission's classification of these equity awards and urge the Commission to state explicitly in the text of the Proposed Rule that incentive-based compensation does not include equity awards that vest solely upon completion of a specified employment period or passage of time, even though their ultimate value fluctuates with the value of the issuer's stock.

**The Proposed Rule Does Not Give An Issuer's Compensation Committee Sufficient Discretion When Pursuing Recovery of Erroneously Awarded Compensation.**

The Proposed Rule significantly limits the discretion of an issuer's compensation committee in pursuing the recovery of erroneously awarded compensation. The Proposed Rule requires that erroneously awarded compensation must be recovered unless the issuer has made a reasonable attempt at recovery and determined it would be impracticable to do so. However, the Proposed Rule does not provide any guidance as to what constitutes a "reasonable attempt" and only a limited definition of what would be considered "impracticable." Under the Proposed Rule issuers essentially would have no discretion as to whether to recover compensation because in order to determine impracticability, the issuer must still follow the prescribed recovery process (including retaining experts to identify and calculate the recoverable amounts, attempting to recover such amounts, and monitoring and documenting the associated costs) in order to conclude that recovery is indeed impracticable.

We recommend that the Proposed Rule be modified to provide a *de minimis* threshold for clawbacks and/or give the issuer's compensation committee discretion not to pursue recovery of erroneously awarded compensation, rather than limiting the circumstances for non-recovery of such compensation to instances where recovery is impracticable. For example, if the issuer determined that the cost of recovery would exceed or be disproportionate to the amounts available for recovery, it would be consistent with protecting the best interests of shareholders to conclude that such recovery should not be pursued. An issuer's compensation committee is in the best position to evaluate the circumstances associated with any potential recovery and determine whether such recovery is in the best interests of shareholders and the company. This is also consistent with the fiduciary duties of the compensation committee members who, at least for NYSE listed issuers, are all independent.

Many companies, including Chevron, have already adopted meaningful clawback policies that grant discretion to the compensation committees in executing a clawback. The Proposed Rule will virtually eliminate this discretionary authority.

**The Proposed Rule Lacks Guidance Regarding Calculation of the Recovery Amount.**

Under the Proposed Rule, "erroneously awarded compensation" is defined as the amount of incentive-based compensation that an executive officer receives based on the incorrect financial data that is over and above what would have been paid under the accounting restatement. For many forms of incentive-based compensation, the calculations necessary to assess the excess compensation will require complex analyses by an evaluator with significant technical experience and knowledge, which will be expensive and time consuming for issuers.

In order to address this concern, the Proposed Rule permits the use of "reasonable estimates" when determining the impact of a restatement on stock price and total shareholder return (TSR), as long as issuers disclose their methodology and file documentation of the estimates. However, it is unclear how a "reasonable estimate" will be determined without engaging a valuation expert or other advisor, as it is not precisely ascertainable how, for example, a restatement would affect awards tied to relative TSR. We are concerned that this ambiguity could give rise to unnecessary shareholder litigation over whether the calculation used to determine the impact of stock price and TSR was in fact based upon "reasonable estimates."

For these reasons, we urge the Commission to provide additional guidance, including examples and proposed methodologies, for reasonable estimates when determining the impact of a restatement on stock price and TSR in the event of a restatement.

**<u>The Proposed Rule Should Not Apply Retroactively</u>.**

The Proposed Rule would apply to any awards granted, earned, or vested on or after the effective date of Rule 10D-1. Because it includes awards that are earned or vested after the effective date, and such awards may have lengthy vesting periods, the Proposed Rule theoretically picks up awards that were granted prior to the effective date. We do not believe Congress intended for the final rules to have retroactive effect. Thus, we believe that Rule 10D-1 should only apply to awards that are granted after the effective date of final rules.

**<u>Conclusion</u>**

Chevron urges the Commission to reconsider the preceding provisions of the Proposed Rule. Thank you for the opportunity to share our views on these matters.

Sincerely,

/s/ Mary A. Francis

Mary A. Francis

Cc: Patricia E. Yarrington, Vice President and Chief Financial Officer
R. Hewitt Pate, Vice President and General Counsel