FREDERIC W. COOK & CO., INC.
2121 AVENUE OF THE STARS, SUITE 2500 LOS ANGELES, CA 90067 - TEL. (310) 277-5070
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April 29, 2011

Via Internet Comment Form

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

Re: File Number S7-13-11
Listing Standards for Compensation Committees

Dear Ms. Murphy:

Frederic W. Cook & Co., Inc. provides consulting services to compensation committees, boards of directors, and corporations with respect to the compensation of executives and directors. The Firm's services are provided to companies in all industries and size categories. We have provided compensation consulting services to more than 2000 companies since we were founded 37 years ago. We are the independent compensation consultants to over 30% of the S&P largest 100 companies.

In our role, we are aware of potential conflicts related to business and personal relationships in delivering independent advice to board compensation committees on executive and director compensation matters. We feel qualified by our experience to offer a perspective on how the process for selecting an independent consultant might be improved, as well as on maintaining this independence during the consulting relationship. Accordingly, this letter focuses on two of the Requests for Comment by the SEC with regard to section 10C(b) of the Securities Exchange Act of 1934, as added by Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, "Independence of Compensation Consultants and Other Compensation Committee Advisers. "

Request for Comment 3--Are there any factors affecting independence that we should add to the list of factors identified in proposed Rule 10C-1(b)(4)? If so, what are they and why should they be included?

The proposed regulations reproduce the statutory language that directs the committee to consider the revenues from the issuer as a percentage of total revenues. While this information may in certain circumstances be helpful we submit that many times it will significantly less helpful than another revenue comparison—a comparison of revenues for services to the compensation committee to all revenues from the issuer. Adding this second comparison helps compensate for the fact that the first comparison is not competitively neutral because it favors multiline firms with much larger revenues.

The following example illustrates the problem. Assume compensation consulting firm C performs services for company X. Assume C's revenues from compensation committee consulting for X are $100,000, all revenues from X are $2 million, and ***total*** revenues are $1 billion. In this case, 95% of the revenues from X are for services other than compensation committee consulting and all revenues from X are only .2% of C's total revenues.

We respectfully submit that the statute directs the committee to look at the wrong percentage—the .2% that revenues from X bears to total revenues of C. Based on our experience this is not what concerns compensation committees or shareholders. Instead, it is the fact that 95% of C's revenues from X are for services other than compensation committee consulting. Stated differently, this type of fact pattern means that 95% of the revenues from X are subject to the control of the officers that are the subject of compensation recommendations by the consultant. This obviously raises a potential for conflict.

Since the directive to compare fees from the issuer to total fees is in the statute, it belongs in the regulations. In order to ensure, however, that compensation committees not ignore the important relationship between fees for compensation committee services and other fees from the issuer, we believe that section 240.10C-1(b)(4) should be amended to add the following language:

> (vi) The amount of fees for services to the compensation committee received from the issuer by the person that employs the compensation consultant, legal counsel or other adviser, as a percentage of the total revenue received from the issuer by the person that employs the compensation consultant, legal counsel, or other adviser.

Request for Comment 12-- Should we adopt rule amendments to Regulation S-K to require listed issuers to describe the compensation committee's process for selecting compensation advisers pursuant to the new listing standards? Would information about the compensation committee's selection process – how it works, what it requires, who is involved, when it takes place, whether it is followed – provide transparency to the compensation adviser selection process and provide investors with information that may be useful to them as they consider the effectiveness of the selection process? Or, would such a requirement result in too much detail about this process in the context of disclosure regarding executive compensation?

Our recommendation is that Regulation S-K not be amended to require additional detail with regard to the process by which compensation advisers are selected. Several factors influence this conclusion.

First, as is all too apparent, the discussion of compensation in proxy statements already takes up a startling amount of space. However meritorious the new language required by the new say-on-pay, say-on-frequency, and say-on-parachute rules, these new requirements have only lengthened disclosures already considered by many to be inordinately long. This factor by itself suggests that the SEC adopt a parsimonious approach toward requiring additional disclosures.

Moreover, we are pessimistic that any additional disclosures would produce information of value to investors. Take the following two situations. In one case a compensation committee member has previously worked with a consultant and been very favorably impressed with his or her

independence, so much so that, based on the director's recommendation, the committee decides to select that consultant as its new adviser without engaging in a formal selection process in which multiple firms are considered. Contrast that to another case where a compensation committee member has liked working with a consultant because of how well that consultant "got along" with management during the compensation setting process. However, in the second case, in order to preserve appearance, several consulting firms are interviewed by the committee. In this hypothetical situation, the second fact pattern will end up being described as favorably as the first, if not better.

A further complexity presented by a need to describe the selection process is that section 10C(b) applies to all advisers to the committee. Legal advice is, of course, often provided by in-house counsel or a law firm that provides advice to the issuer. To the extent a description of the selection process requires the proxy statement to generally describe the process of selecting legal advisers, the disclosure may become even more complicated.

It is possible that future developments may indicate a need to revisit the issue of describing the selection process. At this time, however, we believe it more appropriate to monitor the impact of the new requirements in section 10C as they unfold over the next couple of years, before considering more disclosure requirements.

Respectfully submitted,

David E. Gordon, Managing Director

For Frederic W. Cook & Co., Inc.