

## LAPFF response to SEC consultation on rules requiring listing standards for compensation committees and compensation consultants

LAPFF is a voluntary association of 53 public sector pension funds based in the UK representing assets under management of over £95 billion. It engages with companies in which its members invest in order to improve long-term performance and reduce reputational risk associated with perceived poor corporate governance and corporate responsibility practices.

LAPFF supports the SEC's proposal to introduce listing standards relating to the independence of members on a compensation committee, the committee's authority to retain compensation advisors and the committee's responsibility for the appointment, payment and work of any compensation adviser. In particular, the Forum supports the increased disclosure which it concurs should 'improve the ability of investors to monitor performance of directors responsible for overseeing compensation consultants, thus enabling them to make more informed voting and investment decisions'.

However, on the disclosure rules around conflicts of interest, LAPFF contests the underlying rationale for using pay consultants. Disclosure rules around their role may only serve to formalise this role which will serve to reinforce complexity and sustain the upward spiral caused by the benchmark data which consultants supply. In this regard, the Forum welcomes the clarification of language such that the listing rules will cover obtaining advice from consultants regardless of whether there is a formal engagement or client relationship with the company.

It is noted that foreign private issuers that provide annual disclosures to shareholders of reasons why they do not have an independent compensation committee are exempted from these proposed rules. Whilst the Forum generally supports a 'comply or explain' approach, there do not appear to be sufficient reasons given for a stricter regime to be applied to US companies than to non-US issuers. LAPFF suggests that non-US issuers could be provided with a time-frame within which they could meet required listing standards to ensure a level playing-field with US issuers.

The Forum considers that the SEC could take the opportunity to highlight the following considerations:

- a) Compensation committee members should be appropriately qualified in order to fully understand what, in many cases, are opaque and complex schemes. This would be akin to financial qualifications that would be considered relevant for audit committee membership.
- b) Best practice would be for compensation committees to have full attendance to be quorate. Too many companies accept a lower threshold when determining executive pay and related structures and non-attendance by certain committee members can lead to a decision being taken without independent members being present despite their formal membership of the committee.
- c) In basic alignment with the Dodd-Frank Act, the SEC rules do not stipulate that the advisors must be independent of management, only that the Committee consider and disclose factors that would impact upon their independence. While LAPFF welcomes the increased disclosure requirements in general terms, the overriding consideration is for companies to provide assurances to shareholders of the absence of material business links between advisors and management.

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