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November 18, 2010

Submitted Electronically

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

Re: *Shareholder Approval of Executive Compensation and Golden Parachute Compensation (File No. S7-31-10)*

Dear Ms. Murphy:

On behalf of Public Citizen's 160,000 members and supporters, we are pleased to comment on the proposed rule of the Securities and Exchange Commission (SEC) regarding Shareholder Approval of Executive Compensation and Golden Parachute Compensation (say-on-pay). In general, we support the choices the SEC has made in the proposed rules. However, we would like to highlight concerns and recommendations we have with several important components.

Frequency of Say-on-Pay Votes

We object to the provision that would allow exclusion on substantial implementation grounds of shareholder proposals addressing the frequency of say-on-pay votes. The substantial implementation exclusion should apply only when a company has taken the action requested in a shareholder proposal, and should not be expanded to apply whenever shareholders have previously been given an opportunity to provide input on a matter.

There are numerous instances in which changes in compensation practices of a company would mandate the option for shareholders to file a resolution proposing a change in the frequency of say-on-pay votes. Examples include: hiring a new CEO with a substantially different and questionable pay package than the previous CEO; granting a substantial performance bonus despite underperformance of the company; not adequately tying pay to executive performance resulting in

disproportionately large executive compensation despite poor performance of the company.

In circumstances such and these and in many others, shareholders should at least have the option to argue that a say-on-pay vote is warranted and that the frequency in which the votes can occur should be revisited. If shareholders believe that changes in executive compensation of the company warrants changing the frequency of a non-binding vote – for instance, from every three years to annually – they should not be required to wait up to six years for the change in frequency question to be brought to a proxy vote.

#### Template Language vs. Minimum Guidelines

We do not believe that language for management sponsored resolutions on executive compensation needs to be the same for all companies. Flexibility in the writing of these proposals will allow for useful diversity and inventiveness among companies and allow investors to evaluate the usefulness and relative value of different proposals among competitors. For instance, some companies allow votes on specific elements of compensation packages while others have chosen to split votes to address a broader subset of issues. However, we do believe that proposals should be evaluated by the SEC to ensure that the scope of the say-on-pay proposal is accurately described in the proxy materials and we also believe that there should be minimum guidelines set to ensure accuracy. The SEC might consider requirements such as it required for recipients of TARP funds. This would require, at a minimum, that shareholders be offered an advisory vote to approve the compensation of executive officers as described in the Compensation Discussion & Analysis (CD&A) and tabular disclosure regarding Named Executive Officer Compensation.

#### No Exemptions for Smaller Companies

We urge the SEC not to exempt smaller companies from the say-on-pay vote requirement. We are not aware of any evidence that problematic pay practices are less common at smaller companies. In fact, smaller companies tend to lag behind larger ones in adopting corporate governance best practices. In addition, many of these companies are already making regular disclosures regarding executive compensation; the only incremental burden would be the addition of a management proposal in the proxy statement and on the proxy card and this is hardly enough reason to exempt them from the important say-on-pay vote requirement.

#### New Issuers

A new issuer should be required to give its shareholders the opportunity to cast an initial say-on-pay vote, as well as an initial vote on frequency, at the first annual general meeting held after the initial public offering.

### Broker Discretionary Voting

We strongly support the provision outlined in Section 957 of the Wall Street Reform and Consumer Protection Act directing the national securities exchanges to prohibit brokers from discretionary voting on behalf of shareholders in matters of executive compensation and the frequency of occurrence of votes on executive compensation, when not expressly mandated and directed to do so by the beneficial owner of the security.

### Vote on Golden Parachutes

We applaud the SEC for proposing new, more comprehensive disclosure requirements for golden parachutes subject to the shareholder advisory vote. In our view, the current proxy statement disclosure lacks uniformity, making it difficult for shareholders to compare arrangements at different companies. The more extensive tabular disclosure contained in the proposed rules is thus an important step in the right direction.

Furthermore, we urge the SEC to require this clear disclosure not only in connection with the transaction-based shareholder advisory vote on golden parachutes, but also in the regular proxy statement executive compensation disclosure. Golden parachutes and other termination arrangements play a key part in many shareholders' evaluation of a company's overall compensation program and thus, by extension, shareholders' votes on say-on-pay proposals and proposals to re-elect members of the board's compensation committee. We recognize that some companies may choose to include the tabular disclosure in their annual proxy statements in order to avoid a separate vote on golden parachutes in the event of a transaction; however, we believe that, given the value of the information, mandatory annual disclosure is preferable.

Thank you for the opportunity to comment on proposed rule of the SEC regarding Shareholder Approval of Executive Compensation and Golden Parachute Compensation.

Sincerely,

David Arkush  
Director

Craig Mehall  
Policy Counsel

Public Citizen's Congress Watch division