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Ms. Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

File No. S7-03-06
Proposed Rule: Executive Compensation and Related Party Disclosure
Release Nos. 33-8655; 34-53185; IC-27218

Dear Ms. Morris:

Thank you for providing the opportunity to comment on the Securities and Exchange Commission's (the Commission) proposed rule, "Executive Compensation and Related Party Disclosure" (the Proposed Rule). We support the Commission's efforts to provide transparency into the executive and director compensation process and appreciate the difficulties involved in determining the types of rewards that might be considered "compensation" and the proper measurement of those rewards.

To evaluate the appropriate measure for various types of compensation we believe it is critical to understand and adhere to a clearly defined overall objective for the disclosure. We believe it would be helpful for preparers and users of the information if the Commission would clearly set forth in its final rule what the disclosure is intended to portray (for example, the fair value of all rewards for service, or the amounts recognized in the financial statements as compensation). With this enhancement it may be easier to apply the specific provisions of the rules to new types of compensation arrangements.

Our specific comments are directed primarily at the disclosure of executive compensation and are summarized as follows:

- We believe that share-based compensation reported in the Summary Compensation Table should be aligned with compensation cost reported in the financial statements.
- The Commission should consider providing a sensitivity analysis that explains how post-retirement benefits will be paid in the future to named executive officers in lieu of including the increase in actuarial value of defined benefit postretirement plans in the Summary Compensation Table. If the Commission continues to believe it is appropriate to disclose this amount in the table, clarification is needed as to how to measure the "actuarial value."



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Share-Based Compensation

Under the Proposed Rule, the Stock Awards and Option Awards columns of the Summary Compensation Table would present the entire grant date fair value, as determined pursuant to FASB Statement No. 123 (Revised), *Share-Based Payment* (Statement 123R), of an award as compensation in the year in which the grant is made. We concur with the approach of utilizing the guidance in Statement 123R to derive the ultimate value of these awards, so as to not confuse investors by using valuation techniques in the compensation tables that differ from those used for financial reporting purposes. However, we believe that the amount of compensation that is presented in the Summary Compensation Table in any given year for equity-based awards should follow the same attribution method that is used for financial reporting purposes, which is intended to capture compensation cost in the year it is earned.

We believe that consistency between the amounts reported in the Summary Compensation Table and for financial reporting would enhance the understandability of the disclosures as well as result in rules that are easier to apply. In addition to being inconsistent with the financial statement presentation, the proposal to include in the Summary Compensation Table the entire grant date fair value of an award in the year the award is granted is inconsistent with the presentation of cash payments in the Summary Compensation Table, whereby the salary and bonus columns present compensation that is earned each year. Accordingly, a registrant could elect to provide its officers a cash bonus that is earned over a five-year period or grant non-vested shares that vest over a five-year period; both awards could have similar grant date fair values and be accounted for similarly for financial reporting purposes, but the amount presented in the Summary Compensation Table in the years in which the respective award is granted and earned would be significantly different. The proposal would also create other anomalies in situations in which the same fair value of share-based compensation is granted to an executive in multiple years but the vesting schedules are different. Under the proposal, it would appear that the amount of compensation has remained the same but, if the vesting schedule had been shortened, the increase in compensation would not be apparent. Likewise, if the vesting schedule had been lengthened, the decrease in compensation would not be apparent.

This issue becomes further complicated under the Proposed Rule if equity-based awards are modified. The Proposed Rule would require that previously awarded equity-based awards that are modified must be disclosed in the Summary Compensation Table based on the total fair value of the modified award. Not only is this approach inconsistent with modification accounting under Statement 123R for financial reporting purposes and a company's intent in determining the terms of its awards, but also may be misleading to investors. For example, in situations in which an award is only slightly modified, nearly the same fair value of the award would be presented in the Summary Compensation Table in multiple years, which may imply that the modification was more substantive than it actually was. Another example would include a modification of a liability classified award to an equity classified award. The reclassification of the award may not result in any change in the fair value of the award, but the proposal would require the entire fair value at the date of modification to be presented in the Summary Compensation Table. We believe that equity-based compensation, as well as any incremental value resulting from a



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modification of an equity-based award should be presented in the year that it is earned, which is consistent with the guidance in Statement 123R and accounting for financial reporting purposes.

Under SFAS 123R, liability classified awards are initially measured at grant date fair value and re-measured to fair value at each subsequent reporting date. Under the Proposed Rule, the impact of the re-measurement of liability awards in subsequent periods would not be disclosed. We recommend that the amount recorded in the financial statements related to the change in fair value of liability classified awards also should be included in the Summary Compensation Table. We believe that inclusion of this amount would be consistent with the presentation for equity classified awards and therefore result in a more complete picture of an executive officer's compensation.

We believe disclosure of the grant date fair value associated with share-based compensation for executive officers is useful to users; however we believe that these amounts could be displayed in the supplementary tables to the Summary Compensation Table (i.e., the Grants of Performance-Based Awards Table and the Grants of All Other Equity Awards Table). For instance, the proposed Grants of Performance-Based Awards Table includes a column for display of the target payout of such awards in "dollars" or "numbers." As target dollars should equate to the grant-date fair value of such awards, if the Commission alternatively required disclosure of the target dollars, and included additional disclosure in the table to indicate that these amounts represent grant-date fair value, the desired information would be available to investors. While no similar disclosure currently exists in the proposed Grants of All Other Equity Awards Table, an additional column could be added to display grant-date fair value as well.

These alternative presentations would align compensation cost in the Summary Compensation Table with the amount recognized for financial reporting purposes while still providing investors with information concerning the fair value of such awards at their grant date.

Pension and Postretirement Benefits

We have the following observations and comments about the requirement in the Proposed Rule to report the increase in actuarial value of pension and other postretirement benefits:

- The Proposed Rule would require disclosure of the increase in "actuarial value" of defined benefit postretirement plans for each named executive officer. The term "actuarial value" is not defined in the Proposed Rule. There are terms that have commonly understood meanings under generally accepted accounting principles (GAAP) – "accumulated benefit obligation" and "projected benefit obligation" for pension plans and "accumulated postretirement benefit obligation" and "expected postretirement benefit obligation" for other postretirement benefit plans. While all of those terms are based on actuarial calculations, none is commonly referred to as "actuarial value." There also may be other actuarial calculations that companies have available for other purposes.
- Under each of the common actuarial measures that are used for GAAP, the currently calculated value of benefits and the associated change in value of benefits since the last measurement date generally are calculated in the aggregate for all plan participants using assumptions that are appropriate for plan participants as a group. For example, the salary



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increase assumption used for the entire group may be 4%. However, if a separate assumption was developed for a specific individual it might be 8%. Similarly, retirement ages for the entire population might be different than they would be for named executive officers. Because assumptions are not currently developed for specific individuals in a plan, incremental effort and cost would be required to determine the increase in the actuarial value associated with a particular executive officer.

- In some cases, at least for the actuarial values defined under GAAP, increases in the calculation obligation as a result of changes in compensation and additional service could be more than offset by a decrease in the calculation obligation that would occur as a result of an increase in the discount rate. This would result in a net decrease in the benefit obligation since the last measurement date. We recommend that the Commission consider whether it would be appropriate to include a negative amount of pension benefits in years in which that occurs as well as disclosure concerning the basis for any change, positive or negative.

We believe that the Commission's stated intention of improving the clarity of executive compensation disclosure relative to pensions and postretirement plans might be better achieved by supplementing the proposed narrative disclosure of the terms and conditions for the plans in which the executive officer participates. The proposed disclosure could be supplemented with a sensitivity analysis that would explain the impact of company decisions on future benefit payments to executive officers, such as the effect on annual benefit payments for a specified increase in salary. We believe that this type of disclosure would permit investors to understand the ramifications of current company decisions on future benefit payments, but eliminates the impact of changes in other assumptions not directly within the control of the company, such as discount rates.

If the Commission continues to believe it is appropriate to provide a single amount that purports to represent the benefits earned by an individual under a company plan for a particular year, "actuarial value" should be defined. Specifically, the Commission should clarify whether "actuarial value" is intended to be the same as a specific existing financial reporting measure (e.g., projected benefit obligation or accumulated benefit obligation) or some other actuarial measure. In addition, the Commission should provide guidance on how this calculation should be performed in cases in which employee-specific information is not available and in cases in which the value has decreased.

If you have any questions about our comments please contact Melanie Dolan at (202) 533-4934 or via email at mdolan@kpmg.com or Jeffrey Jones at (212) 909-5490 or via email at jeffreyjones@kpmg.com.

Very truly yours,

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