



## Business Roundtable

1717 Rhode Island Avenue, NW  
Suite 800  
Washington, DC 20036

Telephone 202.872.1260  
Facsimile 202.466.3509  
Website [businessroundtable.org](http://businessroundtable.org)

October 23, 2006

Ms. Nancy M. Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: *Executive Compensation, File No. S7-03-06***

Harold McGraw III  
The McGraw-Hill Companies  
Chairman

Kenneth I. Chenault  
American Express Company  
Co-Chairman

Edward B. Rust, Jr.  
State Farm  
Insurance Companies  
Co-Chairman

John J. Castellani  
President

Larry D. Burton  
Executive Director

Johanna I. Schneider  
Executive Director  
External Relations

Dear Ms. Morris:

This letter is submitted on behalf of Business Roundtable ([www.businessroundtable.org](http://www.businessroundtable.org)), an association of chief executive officers of leading U.S. companies with over \$4.5 trillion in annual revenues and more than 10 million employees. Member companies comprise nearly a third of the total value of the U.S. stock market and represent nearly a third of all corporate income taxes paid to the federal government.

We welcome the opportunity to provide additional comments on the executive compensation rules proposed by the U.S. Securities and Exchange Commission (SEC), specifically relating to the disclosure of annual compensation and job descriptions of up to an additional three most highly compensated employees.

In our previous comment letter on the executive compensation proposals dated April 10, 2006, we urged the SEC not to adopt this requirement. We believed, and continue to believe, that it will not provide useful information to investors in making voting and investment decisions and that it raises a numbers of concerns. As we stated:

- Since it is highly unlikely that the compensation committee is the decision-maker with respect to non-executive employees' compensation, it is unclear as to what purpose this information is intended to serve.
- Disclosing the compensation of certain "non-executive officer" (NEO) employees may cause companies competitive harm by assisting competitors in targeting recruiting efforts at companies' top performers. Moreover, disclosure of non-executive employee compensation may lead valued employees to seek new positions at non-U.S. firms and hedge funds in order to protect their privacy and avoid public disclosure of their compensation.
- The type of employees that may need to be reported under this disclosure will vary greatly by industry (e.g., sales personnel, investment bankers, entertainers, etc.), making it less likely that the information will be suitably comparable.
- Whereas NEOs' total compensation is typically uniform with respect to individual compensation elements and proxy disclosure, non-executives' compensation elements may be wholly different, provide no relative basis of comparison and, without context, would only cause employee morale issues and controversy within a company.

In the final executive compensation rule released on August 11, 2006, the SEC did not adopt this requirement but rather suggested some potential modifications and sought additional comment. Pursuant to the potential modifications, disclosure would still be required of the total annual compensation and job descriptions for up to three additional employees, if the employees' compensation was greater than any of the named executive officers, but only if the employees were responsible for significant policy decisions within a company, a significant subsidiary or a principal business unit, division or function. The SEC went on to explain that such responsibility could include "the exercise of strategic, technical, editorial, creative, managerial, or similar responsibilities."

We do not believe that the potential modifications address the concerns we raised in our April 10, 2006 letter. We continue to believe that disclosure of non-executive officer employee compensation is not material to investor or shareholder decision-making and therefore should not be required. First, the employees who would likely fall under this disclosure requirement are employees whose compensation is not determined by the compensation committee, therefore disclosure of their job descriptions and annual compensation will not shed light onto a company's executive compensation policies or structure. Second, the disclosure of only job descriptions of three additional employees does not limit the competitive harm that would result from such disclosure. In many situations, a job description is sufficient to identify an employee, and a company's competitors could use this information to facilitate recruiting efforts. This disclosure could also lead to employee dissatisfaction, as employees in comparable positions in different segments of a company may discover differing pay levels.

Third, the potential modification to limit the requirement to individuals with significant policy making responsibilities does not effectively limit the range of employees a company must consider in order to determine who meets the proposed definition. In practice, the significant policy making standard may be hard for a company to apply across different business segments, operations and departments, increasing the level of difficulty in determining who should be disclosed. Furthermore, for many companies, the employees with significant policy making responsibilities serving as heads of businesses are already considered "executive officers," and thus, disclosures of their compensation will be required if they are among the most highly compensated executives. Moreover, the new standard does not assist a company in determining what NEO employees should be included. Finally, due to the potentially non-uniform nature of NEO compensation arrangements, a significant degree of volatility could be expected in the NEO employee population included in this disclosure from year to year. This will require substantial effort and expense in identifying and tracking total compensation for a large group of employees, while not providing information of value to investors.

While we continue to believe that the SEC should not require the disclosure of compensation information for three additional employees, we offer some specific suggestions with respect to the proposal. First, any required disclosure should relate to the three additional employees who receive more compensation than the top three most highly compensated executive officers in the Summary Compensation Table, regardless of title. The Principal Executive Officer (PEO) and the Principal Financial Officer (PFO) are included in the Summary Compensation Table based on their responsibilities within the company, not based on their level of compensation. Second, consideration should be given to limiting the three additional employees to those who are in charge of a business segment that is disclosed in a company's SEC filings. Third, in determining which employees will be included in this disclosure, total compensation should be calculated in the same manner as for the other named executive officers, thus excluding pension plan benefits and above-market or preferential earnings on nonqualified deferred compensation plans. Fourth, the three additional employees should not be named and their titles should not be disclosed for the competitive reasons set forth above in addition to privacy considerations; instead, companies should be permitted to identify the business area in which

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each non-executive employee works. Finally, the proposed disclosure should not be required until the 2008 proxy season as companies will face a large administrative burden in identifying the employees whose compensation may have to be disclosed. Moreover, as the Commission recognizes, companies are already working intensely to comply with the new executive compensation rules effective for the 2007 proxy season.

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Business Roundtable appreciates the opportunity to provide comments on the potential modifications to the executive compensation rules. Please do not hesitate to contact Thomas Lehner at Business Roundtable at (202) 872-1260 for further information.

Sincerely,



Steve Odland  
Chairman and CEO  
Office Depot, Inc.  
Chairman, Corporate Governance Task Force  
Business Roundtable

cc: The Honorable Christopher Cox, Chairman, U.S. Securities and Exchange Commission

The Honorable Paul S. Atkins, Commissioner  
The Honorable Roel C. Campos, Commissioner  
The Honorable Cynthia A. Glassman, Commissioner  
The Honorable Annette L. Nazareth, Commissioner  
Mr. John W. White, Director, Division of Corporation Finance  
Mr. Brian G. Cartwright, General Counsel